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REGISTER

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OF GOVERNMENTAL
AGENCIES



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JOINT COMMITTEE ON ADMINISTRATIVE RULES

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INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 2001

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 26, 2000	January 5, 2001	Issue 28	July 2	July 13
Issue 2	January 2, 2001*	January 12	Issue 29	July 9	July 20
Issue 3	January 8	January 19	Issue 30	July 16	July 27
Issue 4	January 16*	January 26	Issue 31	July 23	August 3
Issue 5	January 22	February 2	Issue 32	July 30	August 10
Issue 6	January 29	February 9	Issue 33	August 6	August 17
Issue 7	February 5	February 16	Issue 34	August 13	August 24
Issue 8	February 13*	February 23	Issue 35	August 20	August 31
Issue 9	February 20*	March 2	Issue 36	August 27	September 7
Issue 10	February 26	March 9	Issue 37	September 4*	September 14
Issue 11	March 5	March 16	Issue 38	September 10	September 21
Issue 12	March 12	March 23	Issue 39	September 17	September 28
Issue 13	March 19	March 30	Issue 40	September 24	October 5
Issue 14	March 26	April 6	Issue 41	October 1	October 12
Issue 15	April 2	April 13	Issue 42	October 9*	October 19
Issue 16	April 9	April 20	Issue 43	October 15	October 26
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Issue 18	April 23	May 4	Issue 45	October 29	November 9
Issue 19	April 30	May 11	Issue 46	November 5	November 16
Issue 20	May 7	May 18	Issue 47	November 13*	November 26**
Issue 21	May 14	May 25	Issue 48	November 19	November 30
Issue 22	May 21	June 1	Issue 49	November 26	December 7
Issue 23	May 29*	June 8	Issue 50	December 3	December 14
Issue 24	June 4	June 15	Issue 51	December 10	December 21
Issue 25	June 11	June 22	Issue 52	December 17	December 28
Issue 26	June 18	June 29	Issue 1	December 26 (Wed. Noon)	January 4, 2002
Issue 27	June 25	July 6			

* Tuesday 12 noon deadline following a state holiday.

** Monday publication date following a state holiday.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Services Delivered by the Department of Children and Family Services

- 2) Code Citation: 69 Ill. Adm. Code 302

- 3) Section Numbers: Proposed Action:

302.310 Amended

302.405 Amended

- 4) Statutory Authority: 20 ILCS 5/5

- 5) A Complete Description of the Subjects and Issues Involved: The Department is creating an incentive payment of \$3000 for children between 14 to 18 years of age, who are placed in an adoptive home or for whom private guardianship has been awarded during the time period of March 15, 2001 and June 30, 2002. The payment will be given directly to the child when the adoption assistance or subsidized guardianship subsidy ends. The payment is intended to assist the child's transition to adulthood, to help pay for education, housing, or other forms of vocational training or employment assistance.

- 6) Will these amended rulemaking sections replace an emergency rule currently in effect? Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amended rulemaking sections contain incorporations by reference? No

- 9) Are there any proposed amendments to this Part pending? No

- 10) Statement of Statewide Policy Objectives: The amended rule Sections do not expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff Oswski
Office of Child and Family Policy
Department of Children and Family Services
406 East Monroe Street, Station #65
Springfield, Illinois 62701-1498
Telephone: 217/524-1985
TDD: 217/524-3715
FAX: 217/557-0692

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

E-Mail address: cfpolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None

- B) Reporting, bookkeeping or other procedures required for compliance: None

- C) Types of professional skills necessary for compliance: None

- 13) State reason(s) for this rulemaking if it was not included in either of the two most recent regulatory agendas: The need for filing these amendments was not known at the time.

The full text of the Proposed Amendments is identical to the emergency amendment on page 4294 of this issue of the Illinois Register.

ILLINOIS COMMERCE COMMISSION
NOTICE OF PROPOSED AMENDMENTS

associated with competitive, non-regulated sales to retail customers resulting from the enactment of Article XVI of the Act are not required to be deducted from costs otherwise recoverable under the FAC on the basis of average cost. The amendment further mandates that costs attributable to competitive retail sales outside an electric utility's service area must be deducted from amounts otherwise recoverable under the FAC on the basis of incremental cost.

- 6) Will these proposed amendments replace emergency amendments currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any state mandate on units of local government, school districts, or community college districts.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed within 45 days after the date of this issue of the Illinois Register with:

Donna M. Caton
Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701
(217)782-7434

The Commission invites comment as to whether permanent adoption of the emergency amendments would, from the perspective of individual commenters, serve as a more appropriate alternative than any modification of the text of proposed amendments.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: These amendments will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. These amendments will not affect any small municipalities or not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping

ILLINOIS COMMERCE COMMISSION
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Uniform Electric Fuel Adjustment
- 2) Code Citation: 63 Ill. Adm. Code 425
- 3) Section Numbers: 425-30
425-40
Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 9-220 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/9-220 and 10-101]
- 5) A Complete Description of the Subjects and Issues Involved: The Commission has adopted 83 Ill. Adm. Code 425, "Uniform Electric Fuel Adjustment", to implement Section 9-220 of the Public Utilities Act. Section 9-220(a) provides in relevant part:

Notwithstanding the provisions of Section 9-201, the Commission may authorize the increase or decrease of rates and charges based upon changes in the cost of fuel used in the generation or production of electric power, changes in the cost of purchased power, or changes in the cost of purchased gas through the application of fuel adjustment clauses or purchased gas adjustment clauses.

When the Commission first adopted Part 425, it was not anticipated that electric utilities would receive the right to sell the electricity they generate to retail customers on a non-tariffed basis in their own service area and in the service areas of other utilities. Part 425 has been construed by the Commission in one instance to allow an electric utility to subtract costs attributable to its competitive off-system sales on an average cost, rather than on an incremental cost, basis.

If costs attributable to non-jurisdictional sales (including retail sales to off-system customers) are subtracted from amounts otherwise recoverable under the fuel adjustment clause (FAC), and if fuel costs and purchased power costs are lumped together and subtracted using average rather than incremental costs, the effect is to require FAC customers to pay for a portion of the power costs incurred only because the electric utility has contractually obliged itself to serve a non-native customer or to provide service on a competitive basis to customers within its service area. Under such a construction, retail customers who have no choice but to take electricity priced at the tariffed FAC level effectively subsidize the utility as it sells electricity it has purchased at the then-going market rate to serve extra-territorial customers, or possibly to serve new load of competitive customers within its own service area. It is questionable whether the rates set to collect such a subsidy would be considered just and reasonable for purposes of Article IX of the Public Utilities Act.

The amendment of Part 425 is intended to clarify that energy costs

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- C) Types of professional skills necessary for compliance: Managerial skills

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because: These rules were not summarized because the Commission did not anticipate first notice at this time.

The full text of the Proposed Amendments begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- TITLE 83: PUBLIC UTILITIES
CHAPTER 1: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIES

PART 425
UNIFORM ELECTRIC FUEL ADJUSTMENT

Section	Applicability
425.10	Cost Basis
425.30	Fuel Adjustment Formula
425.40	Interpretation
425.50	Administration

AUTHORITY: Implementing Section 9-220 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/9-220 and 10-101].

SOURCE: Adopted at 5 Ill. Reg. 14133, effective December 3, 1981; amended at 7 Ill. Reg. 191, effective December 15, 1982; codified at 7 Ill. Reg. 14505; amended at 9 Ill. Reg. 684, effective January 8, 1985; amended at 13 Ill. Reg. 16730, effective January 1, 1990; amended at 18 Ill. Reg. 17989, effective December 15, 1994; amended at 19 Ill. Reg. 13882, effective October 1, 1995; emergency amendment at 25 Ill. Reg. _____, effective March 9, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. _____, effective _____, effective _____.

Section 425.30 Fuel Adjustment Formula

The fuel adjustment clause shall be of the following form:

$$FAC = (CF + CPP - CNS) \times 100 - BFC + Ra + Ro + D$$

where:

FAC = Fuel adjustment charge per KWH. The amount in cents per KWH, rounded to the nearest .001¢, to be charged for each applicable KWH billed or delivered in the billing period, in excess of that amount included in Base Fuel Costs. The FAC is subject to refunds or increases due to overcollection or undercollection, depending on the results of the automatic reconciliation factor (Ra) and the ordered reconciliation factor (Ro) as defined under Section 425.50 "Administration".

CF = Allowable fuel cost associated with company owned generating plants. Fuel cost shall be interpreted in accordance with Section 425.40 "Interpretation" to include all fossil and nuclear fuel to be consumed in the utility's own plants or in plants owned by wholly-owned subsidiaries of the utility and/or the utility's share of fossil and nuclear fuel to be consumed in jointly owned or leased plants during the period for which the FAC is being determined.

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CPP = Allowable energy cost associated with purchased power. Purchased power shall be interpreted to include emergency, contract, and economy purchases. Except for power purchased for economy reasons, only the energy portion of the power to be purchased during the period for which the FAC is being determined is to be included. All other associated charges are specifically excluded. The demand charges for power to be purchased for economy reasons are allowable energy cost.

CNS = Energy fuel costs associated with sales not subject to FAC. Energy costs associated with non-jurisdictional non-jurisdictional sales including sales for resale, interdepartmental sales, fuel furnished without charge, and other sales not subject to FAC shall be included in factor CNS on the basis of average CNS during the period for which the FAC is being determined except in the case of energy fuel costs associated with interchange power sales which shall represent the amount recovered with respect to fuel in such sales. The incremental cost of such fuel, and except in the case of energy costs associated with sales made to retail customers as a "competitive service", as that term is defined in Section 16-102 of the Public Utilities Act [220 ILCS 5/16-102]. Energy costs associated with interchange power sales and sales made to retail customers as a competitive service shall be included in factor CNS on an incremental cost basis.

S = Applicable estimated kWhs subject to FAC either to be billed or delivered during the period for which the FAC is being determined.

BFC = Base Fuel Cost in cents/kWh.

Ra = Automatic Reconciliation factor in cents/kWh.

Ro = Ordered Reconciliation factor in cents/kWh.

D = Desulfurization fee in cents/kWh.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 425.40 Interpretation

- a) Economic dispatch. Economic dispatch means the operation of the electric utility's system, utilizing the source of available power to achieve minimum overall costs, taking into consideration the utility's voltage, frequency, reliability, environmental, safety and service quality requirements, as well as the utility's existing contractual obligations. The utility shall adhere to the principles of economic dispatch unless under unusual circumstances the prudent operation of the utility's system dictates otherwise. If there is a deviation from economic dispatch or any use of less than 100% of the fuel cost of any resource in the dispatch, the deviation shall be fully explained in the initial monthly filing after the facts giving rise to such deviation first occur. Subsequent filings which continue to be

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affected by facts previously explained need not be accompanied by such explanation.

- b) Billing period. The billing period is defined as the period beginning with the first billing cycle of the month for which the FAC is being determined and ending with the last billing cycle thereof.
- c) Allowable fuel and fuel related charges (CF).

- 1) The cost of fuel shall include the direct cost of fuel delivered at the generating plants. The direct fossil fuel costs are limited to costs entered into fuel expense Accounts #501 and #547 which have been cleared upon consumption from Fuel Stock Account #151, or in the case of gas fuel the amount which is charged directly to Accounts #501 or #547. Costs cleared from Fuel Stock Accounts #152 and #153 are specifically excluded. The cost of fuel used in the generation or production of electric power shall not include transportation costs of coal (this exclusion includes items 2, 4, and 5 of Fuel Stock Account #151) except as otherwise provided in this subsection. Such costs of fuel shall, when requested by a utility or at the conclusion of the utility's next general electric rate proceeding, whichever shall first occur, include transportation costs of coal purchased under existing coal purchase contracts. For purposes of this subsection "existing coal purchase contracts" means contracts for the purchase of coal in effect on August 27, 1991, as such contracts may thereafter be amended, but only to the extent that any such amendment does not increase the aggregate quantity of coal to be purchased under such contract (Section 9-220 of the Public Utilities Act ("Act") [220 ILCS 5/9-220]).
- 2) The cost of nuclear fuel shall be that as expensed in Account #518, including provisions for storage and disposal of spent nuclear fuel including spent fuel disposal fees, except that handling costs for nuclear fuel assemblies or any expense for fossil fuel which has already been included in the costs of fossil fuel, are specifically excluded.
- 3) The consumed fuel costs associated with test generation shall be included in allowable fuel and fuel related charges to the extent they are equal to or less than the average fuel costs of the utility's other units operated during the period for which the FAC is being determined. Average fuel costs equal total fuel costs of a utility's generating facilities less the cost of test generation, divided by total net generation less test generation.
- 4) Where the cost of fuel includes fuel and/or transportation costs from company owned or controlled services (in whole or in part), that fact shall be noted and described as part of any filing.
- 5) With respect to the price of fuel purchases or transportation services from company or controlled sources pursuant to contracts which are not subject to regulatory authority, the utility company shall file such contracts and amendments thereto annually with the Commission.

ILLINOIS COMMERCE COMMISSION

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- 6) Fuel or transportation charges by affiliated companies which do not appear to be reasonable may result in the suspension of the fuel adjustment clause or cause an investigation thereof to be made by the Commission on its own motion. Any suspension of the fuel adjustment clause may occur if, after a hearing, a finding is made that such charges of a utility are unreasonable.
- 7) The cost of fuel shall include the direct cost of purchasing or otherwise acquiring for utility operations purposes, emission allowances, created under the Federal Clean Air Act Amendments of 1990 (Pub. L. 101-549) including the emission allowances allocated to the utility by the United States Environmental Protection Agency, limited to the following:
- A) The costs cleared from Account #158.1 - Allowance Inventory, and charged to Account #509 - Allowances, concurrent with the monthly emission of sulfur dioxide;
 - B) The gains cleared from Account #254 - Other Regulatory Liabilities, and credited to Account #411.8 - Gains from Disposition of Allowances; and
 - C) The losses charged to Account #411.9 - Losses from Disposition of Allowances.

- d) Allowable Energy Costs Associated with Purchased Power (CPP) represents only the energy cost portion of emergency and contract purchases. It represents the energy and demand cost portions of economy purchases. Non-monetary exchanges of power are not included. Mt. Carmel Public Utility Co., and South Beloit Water, Gas and Electric Company are permitted to include in their computation of purchased power cost (CPP) the demand charges associated with such purchases.

- e) Base Fuel Cost (BFC). The base fuel costs in cents per kWh rounded to the nearest .001¢ included in the energy charges of the utility's rates.

- f) Non-jurisdictional sales. Sales not subject to the jurisdiction of the Commission. Net-net costs associated with sales to other privately owned electric utilities under interchange power agreements.
- g) Desulfurization Cost. Payment for professional services, licenses, etc. for the implementation and operation of a process for the desulfurization of the flue gas when burning high sulfur coal at any location within the State of Illinois irrespective of the attainment status designation of such location, except for any fees or costs related to a service contract to the extent that recovery of comparable costs would not be permitted through the PAC if incurred directly by a utility owning and operating such a facility (Section 9-220 of the Act). If fees are more than 10% of the estimated fuel cost for the month (CF & CPP - CNS) excluding the desulfurization fees, they shall be deferred (Account #186, Miscellaneous Deferred Debits) and amortized at a rate which will permit the charge off of the deferred amount in the shortest time frame, while conforming to the 10% restraint.

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- b) CNS Energy Cost. Energy cost associated with CNS, consisting of generation fuel cost (CF) and purchased power cost (CPP).
- i) Average CNS Energy Cost. Average cost associated with CNS energy cost per kWh shall be computed as a fraction, the numerator of which equals the quantity (total energy cost, less costs attributable to interchange power sales, less energy costs associated with sales made to retail customers as a "competitive service", as that term is defined in Section 16-102 of the Act). The denominator of the fraction shall equal the quantity (the number of kWh of electricity the costs of which are included in total energy cost, less the number of kWh the costs of which are excluded from the numerator of this fraction).

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENTS

- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments during the 45-day First Notice Period which commences on the issue date of this publication of the *Illinois Register* to:

Patricia Lubben, Rules Coordinator
Illinois Department of Corrections
1301 Concordia Court
P.O. Box 19277
Springfield, Illinois 62794-9277
(217) 522-2666, extension 6512

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Discipline and Grievances2) Code Citation: 20 Ill. Adm. Code 504

Section Numbers:	Proposed Action:
504.800	Amended
504.810	Amended
504.820	Amended
504.830	Amended
504.840	Amended
504.850	Amended
504.870	Amended
504.900	Amended
504.905	Amended
504.920	Amended
504.930	Amended
504.940	Amended

4) Statutory Authority: Implementing the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) and implementing and authorized by Sections 3-2, 3-8-8, and 3-10-9 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-8-8, and 3-10-9].

5) A Complete Description of the Subjects and Issues Involved: The time frame in which committed persons must file grievances has been changed to within 60 days of the discovery of the incident or problem which gave rise to the grievance. If grievances are more current, the administration may more effectively and efficiently respond to the grievances and resolve potential problems. Due to ever increasing committed person populations and the increased number of grievances filed, it is not always possible for the Department to meet the processing time frames currently included in the rules. Therefore, time frames for each step of the process have been removed and overall end time frames for processing local grievances and appeals have been included instead. The rule has also been modified with regard to the makeup of the Administrative Review Board. While attempts are made to have a citizen member on each Board, there are times when a citizen member is not at the facility at the time of the scheduled hearings due to such matters as scheduling conflicts or emergencies. It is not feasible to delay the hearing without a citizen member present unless the committed person objects. Procedures regarding direct reviews by the Administrative Review Board have been updated to reflect current practice.

6) Will this proposed rulemaking replace an emergency rulemaking currently in effect? No7) Does this rulemaking contain an automatic repeal date? No

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT

CHAPTER 1: DEPARTMENT OF CORRECTIONS

SUBCHAPTER e: OPERATIONS

PART 504

DISCIPLINE AND GRIEVANCES

SUBPART A: ADMINISTRATION OF DISCIPLINE --- ADULT

Section	
504.10	Applicability
504.12	Definitions
504.15	Responsibilities
504.20	Offenses and Maximum Penalties
504.30	Preparation of Disciplinary Reports
504.40	Temporary Confinement
504.50	Review of Disciplinary Reports
504.60	Investigation of Major Disciplinary Reports
504.70	Adjustment Committee and Program Unit Composition
504.80	Adjustment Committee Hearing Procedures
504.90	New or Additional Proceedings
504.100	Program Unit Hearing Procedures
504.110	Computation of Discipline for Multiple Offenses
504.115	Indeterminate Segregation Placement
504.120	Reduction in Segregation Placement
504.130	Demotion and Restoration in Grade
504.140	Restitution Procedures
504.150	Restoration of Good Time

SUBPART B: ADMINISTRATION OF DISCIPLINE --- JUVENILE

Section	
504.200	Applicability
504.202	Definitions
504.205	Responsibilities
504.210	Offenses and Maximum Penalties
504.220	Preparation of Disciplinary Reports
504.230	Temporary Confinement
504.240	Review of Disciplinary Reports
504.250	Adjustment Committee and Program Unit Composition
504.260	Adjustment Committee Hearing Procedures
504.270	New or Additional Proceedings
504.275	Program Unit Hearing Procedures
504.280	Computation of Discipline for Multiple Offenses
504.290	Restitution Procedures
504.300	Restoration of Good Time

SUBPART C: ADMINISTRATION OF DISCIPLINE --- COMMUNITY SERVICES

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENTS

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT

CHAPTER 1: DEPARTMENT OF CORRECTIONS

SUBCHAPTER e: OPERATIONS

PART 504

DISCIPLINE AND GRIEVANCES

SUBPART A: ADMINISTRATION OF DISCIPLINE --- ADULT

Section	
504.400	Applicability
504.402	Definitions
504.405	Responsibilities
504.410	Offenses and Maximum Penalties
504.420	Preparation of Disciplinary Reports
504.430	Temporary Confinement
504.440	Review of Disciplinary Reports
504.450	Adjustment Committee and Program Unit Composition
504.460	Adjustment Committee Hearing Procedures
504.470	New or Additional Proceedings
504.480	Program Unit Hearing Procedures
504.490	Computation of Penalty for Multiple Offensee
504.500	Restitution Procedures
504.510	Restoration of Good Time

SUBPART D: SEGREGATION, INVESTIGATIVE CONFINEMENT AND ADMINISTRATIVE DETENTION --- ADULT

Section	
504.600	Applicability
504.602	Definitions
504.605	Responsibilities
504.610	Placement in Segregation Status
504.620	Segregation Standards
504.630	Investigative Confinement
504.640	Confinement Pending Transfer (Repealed)
504.650	Confinement in Control Segregation (Repealed)
504.660	Administrative Detention
504.670	Recreation for Persons in Segregation Status

SUBPART E: CONFINEMENT PROCEDURES --- JUVENILE

Section	
504.700	Applicability
504.710	Definitions
504.715	Responsibilities
504.720	Placement in Confinement
504.730	Confinement Procedures

SUBPART F: GRIEVANCE PROCEDURES FOR COMMITTED PERSONS

Section	
504.800	Applicability
504.802	Definitions
504.805	Responsibilities
504.810	Filing of Grievances
504.820	Grievance Officer

DEPARTMENT OF CORRECTIONS

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED AMENDMENTS

NOTICE OF PROPOSED AMENDMENTS

504.830 Grievance Procedures
 504.840 Emergency Procedures
 504.850 Appeals
 504.860 Records
 504.870 Direct Review by Administrative Review Board

SUBPART G: GRIEVANCE PROCEDURES FOR RELEASEES

Section
 504.900 Applicability
 504.905 Definitions
 504.910 Responsibilities
 504.920 Filing of Grievances
 504.930 Review of Grievances
 504.940 Appeals

TABLE A Offenses and Maximum Penalties -- Adult Division

TABLE B Offenses and Maximum Penalties -- Juvenile Division

TABLE C Offenses and Maximum Penalties -- Community Services Division

AUTHORITY: Implementing the Americans With Disabilities Act of 1990 (42 USC 12101, et seq.) and implementing and authorized by Sections 3-2-2, 3-5-2, 3-6-3, 3-8-7, 3-8-9, 3-10-8, and 3-10-9 of the Unified Code of Corrections [730 ILCS 5/3-2-2, 3-5-2, 3-6-3, 3-8-7, 3-8-9, 3-10-8, and 3-10-9]. Sections 504.70 and 504.450 are implementing a Consent Decree (U.S. Department of Justice vs. State of Illinois, #5-CIV-78-0158, S.D. Ill. 1978). Sections 504.80 and 504.460 are also implementing a Consent Order (Arbetry vs. Stelauff, #74 C 1918 and Longstreet vs. Stelauff, #74 C 1951, N.D. Ill., 1982).

SOURCE: Adopted at 8 Ill. Reg. 14277, effective August 1, 1984; amended at 12 Ill. Reg. 8351, effective June 1, 1988; amended at 16 Ill. Reg. 10430, effective July 1, 1992; amended at 22 Ill. Reg. 1206, effective January 1, 1998; amended at 25 Ill. Reg. _____, effective _____.

SUBPART F: GRIEVANCE PROCEDURES FOR COMMITTED PERSONS

Section 504.800 Applicability

This Subpart applies to committed persons assigned to correctional facilities within the Adult-Division and Community Services Divisions of the Department of Corrections.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 504.810 Filing of Grievances

a) A committed person shall first attempt to resolve incidents, problems,

or complaints other than complaints concerning disciplinary proceedings through his or her counselor. If a committed person is unable to resolve the complaint informally or if the complaint concerns a disciplinary proceeding, the individual may file a written grievance on a grievance form that which shall be made available in all living units. A grievance shall be filed within 60 days 6--months after the discovery of the incident, occurrence, or problem which gives rise to the grievance or within 6 months after the receipt of a decision concerning an informal resolution thereof. However, if a committed person can demonstrate that a grievance was not timely filed for good cause, the grievance shall be considered. The grievance procedure shall not be utilized for complaints regarding decisions that which are outside the authority of the Department such as parole decisions, clemency, or orders regarding length of sentence or decisions that which have been rendered by the Director.

b) The grievance form shall be addressed to the Grievance Officer and shall be deposited in the living unit mailbox or other designated repository.

c) Staff assistance shall be available as requested by for those committed persons who cannot prepare their grievances unaided as determined by institutional staff.

1) All committed persons shall be entitled to file grievances regardless of their disciplinary status or classification.
 2) Each facility shall take reasonable steps to ensure that the grievance procedure is accessible to committed persons who are impaired, disabled, or unable to communicate in the English language.

d) Committed persons shall be informed of the grievance procedure at the admitting facility and may request further information regarding the procedure from their counselors.

1) The written procedure shall be available to all committed persons.

2) A committed person unable to speak or read the English language may request that the procedure be explained in the individual's own language.

e) Disciplinary action or reprisals may not be taken against a committed person solely for using the grievance procedure. A committed person may submit a grievance alleging that a reprisal has been made against him or her.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 504.820 Grievance Officer

a) The Chief Administrative Officer shall appoint 2 or more employees who may serve as a Grievance Officer to attempt to resolve problems, complaints, and grievances that which committed persons have been

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- unable to resolve through routine channels.
- b) No person who is directly involved in the subject matter of the grievance or who was a member of the Adjustment Committee that heard a disciplinary report concerning the grievance may serve as the Grievance Officer reviewing that particular case.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 504.830 Grievance Procedures

- a) A Grievance Officer shall review grievances at least weekly, whenever possible provided that one or more grievances have been filed.
- b) The Grievance Officer shall promptly submit a copy of any grievance alleging discrimination based on disability to the facility ADA Coordinator. The facility ADA Coordinator shall conduct such investigation as deemed appropriate and make written recommendations to the Chief Administrative Officer for resolution of the grievance.
- c) A committed person may be afforded an opportunity to appear before the Grievance Officer. The Officer may call witnesses as deemed appropriate.
- d) The Grievance Officer shall consider the grievance and report his or her findings and recommendations in writing to the Chief Administrative Officer within 30 days after the grievance is received by the Officer, whenever possible. The Chief Administrative Officer shall advise the committed person of the decision in writing within 2 months after receipt of the written grievance, where reasonably feasible under the circumstances 15 days after receiving the Officer's report, whenever possible.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 504.840 Emergency Procedures

A committed person may request a grievance be handled on an emergency basis by forwarding the grievance directly to the Chief Administrative Officer.

- a) If the Chief Administrative Officer determines that there is a substantial risk of imminent personal injury or other serious or irreparable harm to the committed person, the grievance shall be handled on an emergency basis.

- b) The Chief Administrative Officer shall expedite processing of the grievance and respond to the committed person, within 3 days after receipt of the grievance, whenever possible, indicating what action shall be or has been taken.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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Section 504.850 Appeals

- a) If, after receiving the response of the Chief Administrative Officer, the committed person still feels that the problem, complaint or grievance has not been resolved to his or her satisfaction, he or she may appeal in writing to the Director within 30 days after the date of the decision receipt of the response. Copies of the grievance Officer's report and the Chief Administrative Officer's decision should be attached.

- b) The Director shall review the grievance and the responses of the Grievance Officer and Chief Administrative Officer and shall determine whether the grievance requires a hearing before the Administrative Review Board. If it is determined that the grievance is without merit or can be resolved without a hearing, the committed person shall be advised of this disposition, in writing, within 60 days after receipt of the grievance, whenever possible.

- c) An A-two-member Administrative Review Board shall be appointed by the Director. One At least one member of the Board may shall be a citizen from the community an individual not employed by the Department, whenever possible. A The Department member shall be designated as chairperson.

- d) The Administrative Review Board shall meet as frequently as necessary and may schedule hearings on grievances. Hearings may be conducted in person or via video or telephonic conference. The Board may call witnesses or examine records at its discretion.

- e) The Administrative Review Board shall submit to the Director a written report of its findings and recommendations within 60 days after receipt of the grievance, whenever possible.

- f) The Director shall review the findings and recommendations of the Board and make a final determination of the grievance within 6 months after receipt of the appealed grievance, where reasonably feasible under the circumstances 15 days after receipt of the Board's report, whenever possible. The committed person shall be sent a copy of the Director's decision.

- g) In those instances where a committed person is appealing a grievance determined by the Chief Administrative Officer to be of an emergency nature, the Administrative Review Board shall expedite processing of the grievance submit its recommendation within 21 days after receipt of the grievance, whenever possible.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 504.870 Direct Review by Administrative Review Board

- a) Committed persons shall submit grievances directly to the Administrative Review Board when grieving:

1) Decisions regarding protective custody placement, including

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- continued placement in or release from protective custody.
- 2) Decisions regarding the involuntary administration of psychotropic medication.
- 3) Decisions regarding disciplinary proceedings which were made at a facility other than the facility where the committed person is currently assigned.
- 4) Other issues except personal property issues which pertain to a facility other than the facility where the committed person is currently assigned.

- b) The Administrative Review Board shall review and process the grievance in accordance with Section 504.950 submit-its-recommendation-within-30 days-after-receipt-of-the-grievance-when-ever-possible.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART G: GRIEVANCE PROCEDURES FOR RELEASEES

Section 504.900 Applicability

This Subpart applies to committed persons who have been released from correctional facilities and are under the supervision of the Juvenile-or-Community-Services-Divisions-of-the Department of Corrections.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 504.905 Definitions

"Department" means the Department of Corrections.

"Director" means the Director of the Department of Corrections.

"Facility ADA Coordinator" means the person or persons designated by the Director to coordinate efforts of the facility in carrying out its responsibilities under Title II of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.).

"Parole Supervisor" means the supervisor of a parole office or a geographic area Community-Services-Division-or-the-supervisor-of-the-Spectra-Intensive-Supervision-Unit within the Department.

"Releasee" means any committed person who has been released under conditional supervision in Illinois due to parole or mandatory supervised release, but who has not yet been discharged from a correctional facility.

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(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 504.920 Filing of Grievances

Releasees who have been unable to resolve complaints or problems through parole staff may file a written grievance with the Parole Supervisor. A grievance shall be filed within 60 days 6-months after the discovery of the incident, occurrence, or problem which gives rise to the grievance or-within-6-months after-the-receipt-of-an-unsuccessful-attempt-to-resolve-the-issue. However, if a committed person can demonstrate that a grievance was not timely filed for good cause, the grievance shall be considered. Complaints or problems regarding the revocation of release status, clemency, or orders regarding the length of sentence or decisions that have been rendered by the Director are not reviewable under this procedure.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 504.930 Review of Grievances

- a) The Parole Supervisor shall promptly submit a copy of any grievance alleging discrimination based on disability to the facility ADA Coordinator. The facility ADA Coordinator shall conduct such investigation as deemed appropriate and make written recommendations to the Parole Supervisor for resolution of the grievance.
- b) The Parole Supervisor shall interview the releasee and shall evaluate and respond to the grievance in writing within 2 months, where reasonably feasible under the circumstances 30-days-after-receipt-when-ever-possible. Copies of the grievance and response shall be retained in the releasee's case file.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 504.940 Appeals

- a) The releasee may, if not satisfied with the results of the grievance, submit a written appeal within 30 days after the date of the decision of-receipt to:

Director
Department of Corrections
1301 Concordia Court, P.O. Box 19277
Springfield, Illinois 62794-9277

- b) The Director shall, within-30-days-when-ever-possible review the grievance and submit a written response to the releasee within 6

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months after receipt of the appealed grievance, where reasonably feasible under the circumstances.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Treatment and Rehabilitation Services

2) Code Citation: 59 Ill. Adm. Code 112

3) Section Numbers: Proposed Action:
112.80 Amend
112.90

4) Statutory Authority: Implementing Sections 1-110.5, 1-121.5, 2-102, 2-107.1, 2-107.2, 2-110, 2-110.1, 2-200, 3-207, 3-405, 3-903, 3-910, 4-209, 4-312, 4-704 and 4-709 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-1105, 1-121.5, 2-102, 2-107.1, 2-107.2, 2-110, 2-110.1, 2-200, 3-207, 3-405, 3-903, 3-910, 4-209, 4-312, 4-704 and 4-709] and Sections 5.1 and 7 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5.1 and 7] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Section 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

5) A Complete Description of the Subjects and Issues Involved: The proposed amendments to Section 112.80 clarify Department procedures and protocol for the use and administration of psychotropic medications in the Department's mental health and developmental disabilities facilities. The proposed amendment to Section 112.90 implements the provisions of Senate Bill 317. Senate Bill 317, among other things, added a new Section, 1-121.5, to the Mental Health and Developmental Disabilities Code. Section 1-121.5 of the Code defines "authorized involuntary treatment" to mean the use of psychotropic medications or electro-convulsive therapy (ECT). Senate Bill 317 further amends other Sections of the Code to set guidelines and parameters on the Department's use of authorized involuntary treatment.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
(217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

2) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None

- C) Types of professional skills necessary form compliance: None

3) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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TITLE 59: MENTAL HEALTH
CHAPTER 1: DEPARTMENT OF HUMAN SERVICES

PART 112

TREATMENT AND HABILITATION SERVICES

Section

- 112.5 Incorporation by reference
- 112.10 Utilization review hearings
- 112.20 Admission, treatment and habilitation of mentally retarded persons
- 112.30 Recipient physical and dental examinations and informed consent for services
- 112.40 Release and burial of deceased patients
- 112.50 Tuberculosis control program (Repealed)
- 112.70 Protection of human subjects
- 112.80 Use of **Narcotics narcotics and Psychotropic Medications psychotropic drugs** in Department Facilities **facilities**
- 112.90 Administration of **Psychotropic psychotropic Medications drugs**

AUTHORITY: Implementing Sections 1-110.5, 1-121.5, 2-102, 2-107.1, 2-107.2, 2-110, 2-110.1, 2-200, 3-207, 3-405, 3-903, 3-910, 4-209, 4-312, 4-704 and 4-709 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-1105, 1-21.5, 2-102, 2-107.1, 2-107.2, 2-110, 2-110.1, 2-200, 3-207, 3-405, 3-903, 3-910, 4-209, 4-312, 4-704, and 4-709] and Sections 5.1 and 7 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5.1 and 7] and authorized by Section 5-104 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/5-104] and Sections 5 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/5].

SOURCE: Release and Burial of Deceased Patients adopted October 1, 1969; Tuberculosis Control Program adopted May 29, 1975; Protection of Human Subjects adopted October 2, 1973; Use of Narcotics and Psychotropic Drugs in Department Facilities adopted July 1, 1974, amended at 3 Ill. Reg. 28, p. 90, effective July 16, 1979; amended at 4 Ill. Reg. 17, p. 234, effective April 15, 1980; Administration of Psychotropic Drugs adopted June 14, 1974; amended at 3 Ill. Reg. 28, p. 100, effective July 16, 1979; amended at 4 Ill. Reg. 17, p. 234, effective April 15, 1980; rules merged and codified at 5 Ill. Reg. 10725; amended at 9 Ill. Reg. 12785, effective August 1, 1985; amended at 10 Ill. Reg. 11894, effective July 1, 1986; amended at 13 Ill. Reg. 20344, effective December 19, 1989; amended at 21 Ill. Reg. 2210, effective February 1, 1997; recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; amended at 23 Ill. Reg. 10327, effective August 10, 1999; amended at 25 Ill. Reg. _____, effective _____.

Section 112.80 Use of **Narcotics narcotics and Psychotropic Medications psychotropic drugs** in Department Facilities **facilities**

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- a) In accordance with Section 5.1 of "An Act codifying the powers and duties of the Department of Human Services" the "Mental Health and Developmental Disabilities Administrative Act" [20 ILCS 1705/5.1], below is a listing of medication with maximum dosages shall be issued yearly by the Mental Health and Developmental Disabilities Services Pharmacy and Therapeutics Committee. This list of narcotics and psychotropic medications shall represent the official listing of such medications drugs authorized for use in Department facilities. For the purposes of this Section, "psychotropic medications drugs" refers to medications used drugs-whose use for antipsychotic, antidepressant, anxiolytic and/or anxiolytic purposes as listed in the AHFS: Drug Information Manual (American Formulary Service) (American Society of Health-System Pharmacists, 7272 Wisconsin Avenue, Bethesda, Maryland 20814) (2000), published annually and updated quarterly. AHA Drug-Evaluations (American Medical Association-1983)-latest edition may be the Physician's Desk Reference (PDR) Medical Economics Company at Montvale, NJ 07645-1742), 4986r (2000), published annually) and the Drug Facts and Comparisons (Facts and Comparisons, 111 West Port Plaza, Suite 300, St. Louis, Missouri 63146-3098, published annually and updated monthly), or where there is a body or peer reviewed medical literature supporting its use. "Narcotics" refers to those medications drugs listed as narcotics in the above same references.
- b) The Department shall establish a Pharmacy and Therapeutics Committee under the auspices of Mental Health and Developmental Disabilities Services, which shall serve as the vehicle for compliance with the above statute as it relates to the establishment of medications that may be utilized within Departmental institutions. The Pharmacy and Therapeutics Committee shall consist of the Administrator of Mental Health and Developmental Disabilities Services, the Chief of Clinical Services for the Office of Mental Health, the Clinical Director for the Office of Developmental Disabilities, the Nursing Coordinator for the Office of Mental Health, the Nursing Coordinator for the Office of Developmental Disabilities, a Facility Medical Director from the Office of Mental Health, a Facility Medical Director from the Office of Developmental Disabilities, the Deputy Director of Pharmacy Services, and the Manager of the Bureau of Pharmacy and Clinical Support Services. The Chairperson of the Pharmacy and Therapeutics Committee shall be the Manager of the Bureau of Pharmacy and Clinical Support Services or his/her designee. The Chairperson shall appoint, as necessary, additional members representing a broad scope of disciplines. The Pharmacy and Therapeutics Committee shall review at least annually, all medications within the pharmaceutical classes appearing on the Central Formulary, relative to their clinical efficacy and safety for either retention or removal from usage within the Department. The Chairperson may incorporate recommended changes to the Department's Central Formulary based upon his/her professional judgement. The Chairperson Drug-Review-Committee-of-eight-members-of which-four-shall-be-the-Department's-Associate-Director--for--Clinical

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Services--(Chairperson)--the-Department's--Director-of-Research--the-Department's-Chief-of-Medical-Services--and-the-Department's-Chief-of-Pharmacy-Services--The-Associate-Director-for-Clinical-Services-shall appoint--four--additional--Department--employees--representing-a-broad-scope-of-the-pharmacological-services--and-skills--required--in-the-Department--The-Drug-Review-Committee-shall-review-the-use-of-and-narcotics-listed-in-subsections-(c)(1)-(4)-(5)-(6)-(7)-(8)-(9)-(10)-(11)-(12)-(13)-(14)-(15)-(16)-(17)-(18)-(19)-(20)-(21)-(22)-(23)-(24)-(25)-(26)-(27)-(28)-(29)-(30)-(31)-(32)-(33)-(34)-(35)-(36)-(37)-(38)-(39)-(40)-(41)-(42)-(43)-(44)-(45)-(46)-(47)-(48)-(49)-(50)-(51)-(52)-(53)-(54)-(55)-(56)-(57)-(58)-(59)-(60)-(61)-(62)-(63)-(64)-(65)-(66)-(67)-(68)-(69)-(70)-(71)-(72)-(73)-(74)-(75)-(76)-(77)-(78)-(79)-(80)-(81)-(82)-(83)-(84)-(85)-(86)-(87)-(88)-(89)-(90)-(91)-(92)-(93)-(94)-(95)-(96)-(97)-(98)-(99)-(100)-(101)-(102)-(103)-(104)-(105)-(106)-(107)-(108)-(109)-(110)-(111)-(112)-(113)-(114)-(115)-(116)-(117)-(118)-(119)-(120)-(121)-(122)-(123)-(124)-(125)-(126)-(127)-(128)-(129)-(130)-(131)-(132)-(133)-(134)-(135)-(136)-(137)-(138)-(139)-(140)-(141)-(142)-(143)-(144)-(145)-(146)-(147)-(148)-(149)-(150)-(151)-(152)-(153)-(154)-(155)-(156)-(157)-(158)-(159)-(160)-(161)-(162)-(163)-(164)-(165)-(166)-(167)-(168)-(169)-(170)-(171)-(172)-(173)-(174)-(175)-(176)-(177)-(178)-(179)-(180)-(181)-(182)-(183)-(184)-(185)-(186)-(187)-(188)-(189)-(190)-(191)-(192)-(193)-(194)-(195)-(196)-(197)-(198)-(199)-(200)-(201)-(202)-(203)-(204)-(205)-(206)-(207)-(208)-(209)-(210)-(211)-(212)-(213)-(214)-(215)-(216)-(217)-(218)-(219)-(220)-(221)-(222)-(223)-(224)-(225)-(226)-(227)-(228)-(229)-(230)-(231)-(232)-(233)-(234)-(235)-(236)-(237)-(238)-(239)-(240)-(241)-(242)-(243)-(244)-(245)-(246)-(247)-(248)-(249)-(250)-(251)-(252)-(253)-(254)-(255)-(256)-(257)-(258)-(259)-(260)-(261)-(262)-(263)-(264)-(265)-(266)-(267)-(268)-(269)-(270)-(271)-(272)-(273)-(274)-(275)-(276)-(277)-(278)-(279)-(280)-(281)-(282)-(283)-(284)-(285)-(286)-(287)-(288)-(289)-(290)-(291)-(292)-(293)-(294)-(295)-(296)-(297)-(298)-(299)-(300)-(301)-(302)-(303)-(304)-(305)-(306)-(307)-(308)-(309)-(310)-(311)-(312)-(313)-(314)-(315)-(316)-(317)-(318)-(319)-(320)-(321)-(322)-(323)-(324)-(325)-(326)-(327)-(328)-(329)-(330)-(331)-(332)-(333)-(334)-(335)-(336)-(337)-(338)-(339)-(340)-(341)-(342)-(343)-(344)-(345)-(346)-(347)-(348)-(349)-(350)-(351)-(352)-(353)-(354)-(355)-(356)-(357)-(358)-(359)-(360)-(361)-(362)-(363)-(364)-(365)-(366)-(367)-(368)-(369)-(370)-(371)-(372)-(373)-(374)-(375)-(376)-(377)-(378)-(379)-(380)-(381)-(382)-(383)-(384)-(385)-(386)-(387)-(388)-(389)-(390)-(391)-(392)-(393)-(394)-(395)-(396)-(397)-(398)-(399)-(400)-(401)-(402)-(403)-(404)-(405)-(406)-(407)-(408)-(409)-(410)-(411)-(412)-(413)-(414)-(415)-(416)-(417)-(418)-(419)-(420)-(421)-(422)-(423)-(424)-(425)-(426)-(427)-(428)-(429)-(430)-(431)-(432)-(433)-(434)-(435)-(436)-(437)-(438)-(439)-(440)-(441)-(442)-(443)-(444)-(445)-(446)-(447)-(448)-(449)-(450)-(451)-(452)-(453)-(454)-(455)-(456)-(457)-(458)-(459)-(460)-(461)-(462)-(463)-(464)-(465)-(466)-(467)-(468)-(469)-(470)-(471)-(472)-(473)-(474)-(475)-(476)-(477)-(478)-(479)-(480)-(481)-(482)-(483)-(484)-(485)-(486)-(487)-(488)-(489)-(490)-(491)-(492)-(493)-(494)-(495)-(496)-(497)-(498)-(499)-(500)-(501)-(502)-(503)-(504)-(505)-(506)-(507)-(508)-(509)-(510)-(511)-(512)-(513)-(514)-(515)-(516)-(517)-(518)-(519)-(520)-(521)-(522)-(523)-(524)-(525)-(526)-(527)-(528)-(529)-(530)-(531)-(532)-(533)-(534)-(535)-(536)-(537)-(538)-(539)-(540)-(541)-(542)-(543)-(544)-(545)-(546)-(547)-(548)-(549)-(550)-(551)-(552)-(553)-(554)-(555)-(556)-(557)-(558)-(559)-(560)-(561)-(562)-(563)-(564)-(565)-(566)-(567)-(568)-(569)-(570)-(571)-(572)-(573)-(574)-(575)-(576)-(577)-(578)-(579)-(580)-(581)-(582)-(583)-(584)-(585)-(586)-(587)-(588)-(589)-(590)-(591)-(592)-(593)-(594)-(595)-(596)-(597)-(598)-(599)-(600)-(601)-(602)-(603)-(604)-(605)-(606)-(607)-(608)-(609)-(610)-(611)-(612)-(613)-(614)-(615)-(616)-(617)-(618)-(619)-(620)-(621)-(622)-(623)-(624)-(625)-(626)-(627)-(628)-(629)-(630)-(631)-(632)-(633)-(634)-(635)-(636)-(637)-(638)-(639)-(640)-(641)-(642)-(643)-(644)-(645)-(646)-(647)-(648)-(649)-(650)-(651)-(652)-(653)-(654)-(655)-(656)-(657)-(658)-(659)-(660)-(661)-(662)-(663)-(664)-(665)-(666)-(667)-(668)-(669)-(670)-(671)-(672)-(673)-(674)-(675)-(676)-(677)-(678)-(679)-(680)-(681)-(682)-(683)-(684)-(685)-(686)-(687)-(688)-(689)-(690)-(691)-(692)-(693)-(694)-(695)-(696)-(697)-(698)-(699)-(700)-(701)-(702)-(703)-(704)-(705)-(706)-(707)-(708)-(709)-(710)-(711)-(712)-(713)-(714)-(715)-(716)-(717)-(718)-(719)-(720)-(721)-(722)-(723)-(724)-(725)-(726)-(727)-(728)-(729)-(730)-(731)-(732)-(733)-(734)-(735)-(736)-(737)-(738)-(739)-(740)-(741)-(742)-(743)-(744)-(745)-(746)-(747)-(748)-(749)-(750)-(751)-(752)-(753)-(754)-(755)-(756)-(757)-(758)-(759)-(760)-(761)-(762)-(763)-(764)-(765)-(766)-(767)-(768)-(769)-(770)-(771)-(772)-(773)-(774)-(775)-(776)-(777)-(778)-(779)-(780)-(781)-(782)-(783)-(784)-(785)-(786)-(787)-(788)-(789)-(790)-(791)-(792)-(793)-(794)-(795)-(796)-(797)-(798)-(799)-(800)-(801)-(802)-(803)-(804)-(805)-(806)-(807)-(808)-(809)-(810)-(811)-(812)-(813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-(2269)-(2270)-(2271)-(2272)-(2273)-(2274)-(2275)-(2276)-(2277)-(2278)-(2279)-(2280)-(2281)-(2282)-(2283)-(2284)-(2285)-(2286)-(2287)-(2288)-(2289)-(2290)-(2291)-(2292)-(2293)-(2294)-(2295)-(2296)-(2297)-(2298)-(2299)-(2300)-(2301)-(2302)-(2303)-(2304)-(2305)-(2306)-(2307)-(2308)-(2309)-(2310)-(2311)-(2312)-(2313)-(2314)-(2315)-(2316)-(2317)-(2318)-(2319)-(2320)-(2321)-(2322)-(2323)-(2324)-(2325)-(2326)-(2327)-(2328)-(2329)-(2330)-(2331)-(2332)-(2333)-(2334)-(2335)-(2336)-(2337)-(2338)-(2339)-(2340)-(2341)-(2342)-(2343)-(2344)-(2345)-(2346)-(2347)-(2348)-(2349)-(2350)-(2351)-(2352)-(2353)-(2354)-(2355)-(2356)-(2357)-(2358)-(2359)-(2360)-(2361)-(2362)-(2363)-(2364)-(2365)-(2366)-(2367)-(2368)-(2369)-(2370)-(2371)-(2372)-(2373)-(2374)-(2375)-(2376)-(2377)-(2378)-(2379)-(2380)-(2381)-(2382)-(2383)-(2384)-(2385)-(2386)-(2387)-(2388)-(2389)-(2390)-(2391)-(2392)-(2393)-(2394)-(2395)-(2396)-(2397)-(2398)-(2399)-(2400)-(2401)-(2402)-(2403)-(2404)-(2405)-(2406)-(2407)-(2408)-(2409)-(2410)-(2411)-(2412)-(2413)-(2414)-(2415)-(2416)-(2417)-(2418)-(2419)-(2420)-(2421)-(2422)-(2423)-(2424)-(2425)-(2426)-(2427)-(2428)-(2429)-(2430)-(2431)-(2432)-(2433)-(2434)-(2435)-(2436)-(2437)-(2438)-(2439)-(2440)-(2441)-(2442)-(2443)-(2444)-(2445)-(2446)-(2447)-(2448)-(2449)-(2450)-(2451)-(2452)-(2453)-(2454)-(2455)-(2456)-(2457)-(2458)-(2459)-(24

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for up to three calendar days. The attending physician shall document the reason for such use in the recipient's medical record and shall notify the facility's medical director of the use no later than the next working day after administration of the medication drug. If the medication drug is to be utilized for more than three calendar days, authorization shall be obtained from the facility's medical director who is responsible for applying to the Chairperson of the Pharmacy and Therapeutics Committee for authorization. The Drug-Review-Committee for authorization--if the facility's medical director has submitted a written application to the Chairperson of the Drug-Review-Committee the facility medical director may authorize continuation of the use of the medication drug for up to seven calendar days beyond the initial three-day period (total of 10 calendar days), at which point medication must be discontinued without the authorization. The written response of the Chairperson of the Pharmacy and Therapeutics Drug Review Committee, or his or her designee designate shall be filed in the recipient's medical record together with a copy of the medical director's application.

g) Use of any medication drug not authorized pursuant to subsections (a) through (f) subsection (f)(2)-(3)-(4)-(5) of this Section for psychotropic purposes is prohibited, unless its use has been approved for research in writing by the Chairperson of the Mental Health and Developmental Disabilities Services Pharmacy and Therapeutics Drug Review Committee, based upon the Committee's review and authorization of the research.

b) Based upon peer-reviewed professional literature and clinical evaluations of facility Formulary Addition Request Forms, the Pharmacy and Therapeutics Committee shall develop and maintain the Department's official formulary of medication that may be used within the Department in-patient facilities.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 112.90 Administration of Psychotropic Medications psychotropic-drugs

This Section addresses the use of psychotropic medications or electroconvulsive therapy (ECT) in the treatment of patients receiving services within Department programs.

Definitions

"Authorized involuntary treatment" means psychotropic medication or electroconvulsive therapy, including those tests and related procedures that are essential for the safe and effective administration of the treatment. [405 ILCS 5/1-121.5]

"Capable" means the ability of the recipient to make reasoned

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decisions regarding treatment/habilitation alternatives.

"Electroconvulsive Therapy (ECT)" means the use of electrical stimulation, for therapeutic ends, to induce a generalized seizure.

"Guardianship" refers to the legal relationship between an adult recipient or ward, and a court appointed guardian, including a public guardian such as the Office of State Guardian. Illinois guardians may take legally binding decisions on behalf of wards of personal or financial affairs, or both. For the purposes of this Part, the guardian must have court authority to make personal decisions for the ward. Guardians with personal decision-making authority will typically act under a plenary guardianship. A plenary guardian is one who has full decision-making authority over the person without restrictions. However, a guardian may also legitimately act under a temporary or a limited guardianship in which the guardian has clearly defined medical decision-making authority. A parent of an adult recipient without guardianship is not legally authorized to make binding decision on behalf of a recipient. When doubt exists as to the decision-making authority of a guardian, the guardian shall supply either letters of office or a copy of a court order documenting legal authority to act on behalf of the ward.

"Informed Consent" means the voluntary and knowing choice by a recipient or his/her legal guardian.

"Lack of Capacity" means the inability, due to mental impairment, to make reasoned decisions regarding treatment/habilitation alternatives, including the taking of medication, by evaluating among other factors, information about the likelihood of therapeutic benefits and the risk of side effects.

"Legally and clinically competent recipient" means an individual who is not under guardianship and has the capacity to make reasoned decisions and give informed consent.

"Legally and clinically incompetent recipient" means an individual under guardianship or who lacks the capacity to make reasoned decisions and give informed consent.

"Long-acting psychotropic medication" means psychotropic medications, including but not limited to Haloid Percanate and Prolixin Percanate, that are designed so that a single dose will have an intended clinical effect for a period of at least 48 hours. [405 ILCS 5/1-113.5]

"Medical Coordinator" means the Medical Coordinator for Mental Health (if the recipient resides in a mental health facility) or the Medical Coordinator for Developmental Disabilities (if the recipient resides

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in a developmental disabilities facility).

"Medication" as used in this Section, means psychotropic medication.

"Psychotropic medication" means medication used for antipsychotic, antidepressant, anxiolytic, antianxiety, behavioral modification or behavioral management purposes, as listed in the Physician's Desk Reference (PDR) (Medical Economics Company, at Montvale, NJ 07645-1742) (2000, published annually); AHS Drug Information Manual (American Formulary Service) (American Society of Health-System Pharmacists, 7272 Wisconsin Avenue, Bethesda, Maryland 20814) (2000, published annually and updated quarterly) and the Drug Facts and Comparisons (Facts and Comparisons, 111 West Port Plaza, Suite 300, St Louis, Missouri 83146-3098) (published annually and updated monthly), or where there is a body of peer reviewed medical literature supporting its use.

"Substitute decision maker" means a person who possesses the authority to make decisions under the Power of Attorney for Health Care Law or under the Mental Health Treatment Preference Declaration Act. [405 ILCS 5/4-110.5]

Procedures

- a) Evaluation
 - 1) No psychotropic medication or electroconvulsive therapy (ECT) shall be prescribed for a recipient unless examinations have been conducted in accordance with Section 112.30. The prescribing physician shall conduct the examinations personally, or shall review the record of the examinations. The prescribing physician shall record, sign, and date (with time) the prescription. The prescribing physician shall also document in the recipient's clinical record any appropriate clinical information.
 - 2) With regard to psychotropic medication on an emergency basis, the requirements of subsection (a)(1) need not be met when the prescribing physician has determined by personal observation or from information supplied by another clinician with thorough knowledge of the recipient's current clinical condition that the recipient is in need of immediate medication in order to prevent the recipient from causing serious and imminent physical harm to self or others.
- b) Informed Consent

Prior to prescribing psychotropic medications or ECT in non-emergency situations, a physician shall ascertain and document whether the recipient is capable of giving informed consent.

 - 1) Legally and Clinically Competent Recipients
 - A) If the recipient is able to give informed consent, the physician shall advise the recipient, in writing, of the following:

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- i) nature and purpose of the proposed treatment;
 - ii) whether the proposed treatment requires periodic testing/procedures to ensure safety/efficacy;
 - iii) side effects, risks and benefits of the proposed treatment;
 - iv) prognosis and risks without the proposed treatment;
 - v) alternate treatments and their risks, side effects, benefits and efficacy; and
 - vi) the right to refuse the proposed treatment.
- B) The required information shall be given to the recipient and the recipient's guardian or substitute decision maker in a manner consistent with his/her ability to understand, including regular use of sign language for any deaf or hard of hearing individual for whom sign language is a primary mode of communication.
- C) Informed written consent shall be obtained from the recipient.
 - D) If the recipient is unable to give informed consent and refuses the proposed treatment, any treatment must proceed in accordance with the provisions of subsection (c) (Refusal of Treatment).
 - E) If the recipient has previously executed a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act or the Power of Attorney for Health Care Law, the subsequent treatment must take into consideration the provisions of that declaration or power of attorney.
- 2) Legally and Clinically Incompetent Recipients
- A) Prior to prescribing psychotropic medications or ECT in non-emergency situations, a physician shall advise the recipient and the recipient's guardian or substitute decision maker, in writing, of the following:
 - i) nature and purpose of the proposed treatment;
 - ii) whether the proposed treatment requires periodic testing/procedures to ensure safety/efficacy;
 - iii) side effects and risks of the proposed treatment;
 - iv) prognosis and risks without the proposed treatment;
 - v) alternate treatments and their risks, side effects, benefits and efficacy; and
 - vi) the right to refuse the proposed treatment.
 - B) The required information shall be given to the recipient and the recipient's guardian or substitute decision maker in a manner consistent with his/her ability to understand, including regular use of sign language for any deaf or hard of hearing individual for whom sign language is a primary mode of communication.
 - C) The recipient shall be asked if he/she agrees to receive the proposed treatment. If the recipient does not object,

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informed written consent shall be obtained from the recipient's guardian or substitute decision maker and shall be documented in the recipient's medical record. If the guardian or substitute decision maker does not provide such informed written consent any treatment must proceed in accordance with subsection (c) (Refusal of treatment).

D) If the recipient objects and informed written consent to the proposed treatment is not obtained from the guardian or the substitute decision maker, any treatment must proceed in accordance with subsection (c) (Refusal of treatment).

E) If the recipient has previously executed a declaration for mental health treatment under the Mental Health Treatment Preference Declaration Act or the Power of Attorney for Health Care Law, the subsequent treatment must take into consideration the provisions of treat declaration or power of attorney.

C) Refusal of Treatment

A recipient's refusal to receive psychotropic medication or ECT does not in itself constitute an emergency. Such refusal, as documented in the clinical record, shall be honored except in the following circumstances:

1) Emergencies

In an emergency, when treatment is necessary to prevent a recipient from causing serious and imminent physical harm to himself/herself or others.

A) In such an emergency, a member of the treatment/habilitation team shall document in the recipient's clinical record that the staff have explored alternative treatment options to contain the emergency. The documentation shall include a written explanation of the reasons why alternative treatments are not appropriate.

B) For administration of psychotropic medications the prescribing physician or a nurse in consultation with a physician shall document his/her determination that an emergency exists based on a personal examination of the individual. Administration of the medication shall be accompanied by a physician's order.

C) In prescribing psychotropic medications on an emergency basis the prescribing physician shall examine the recipient and document his/her determination of the initial emergency and response, including the circumstances leading up to the need for emergency treatment, in the recipient's clinical record as soon as possible, but within 24 hours. Psychotropic medication may not be continued unless the need for such medication is redetermined at least every 24 hours and the circumstances demonstrating that need are set forth in the recipient's clinical record. A redetermination is based on a personal examination of the recipient by a

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D) physician or a nurse with the consultation of a physician. Treatment shall not be administered over a recipient's refusal under Section 2-107 of the Mental Health and Developmental Disabilities Code for a period in excess of 72 hours, excluding Saturdays, Sundays and holidays, unless the treating physician with the support of the treatment/habilitation team files a petition for a court order under Section 2-107.1 of the Code and the treatment continues to be necessary in order to prevent the recipient from causing serious and imminent physical harm to himself/herself or others. If no such petition is filed, treatment must be discontinued.

E) A restriction of rights form shall be completed for each administration of emergency treatment.

F) ECT may be administered over a patient's refusal only with a court order and prior written physician's order or in emergency situations as defined in Section 2-107 of the Code.

G) Upon commencement of services, or as soon thereafter as the condition of the recipient permits, the facility shall advise the recipient as to the circumstances under which the use of emergency forced medication is permitted under Section 2-107(a) of the Mental Health and Developmental Disabilities Code [405 ILCS 5/200(d)].

Concurrently, the facility shall ask the recipient which form of intervention he/she would prefer if any of these circumstances arise. The recipient's preference shall be documented in the clinical record and communicated by the facility to the recipient's guardian or substitute decision maker, if any. If any such circumstances arise, the facility shall give due consideration to the preferences of the recipient regarding which form of intervention to use as communicated to the facility by the recipient or as stated in the recipient's advance directive.

H) Under no circumstance may long-acting psychotropic medications be administered under Section 2-107 of the Code.

I) Under no circumstances may ECT be administered to a minor recipient without a court order.

2) Administration of Treatment on Court Order

A) If the treating physician, with the support of the treatment/habilitation team, determines that psychotropic medication or ECT is clinically indicated for a recipient who does not at the time pose an imminent risk of serious physical harm to himself/herself or others, and the recipient refuses or the recipient does not object but the guardian or substitute decision maker refuses the treatment, the facility may file a petition in the circuit court under Section 2-107.1 of the Code for court-ordered treatment.

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- B) If the treating physician with the support of the treatment/habilitation team files a petition under Section 2-107.1 of the Code, a physician shall examine the recipient and address the following issues for the court:
- i) whether the recipient has a serious mental illness or developmental disability;
 - ii) whether because of the mental illness or developmental disability, the recipient exhibits any one of the following: deterioration of his/her ability to function, suffering, or threatening behavior;
 - iii) whether the illness or disability has existed for a period marked by the continuing presence of the symptoms set forth in Section (C)(2)(B)(ii) or the repeated episodic occurrence of such symptoms;
 - iv) whether the predicted benefits of the treatment will outweigh any possible harm;
 - v) whether the recipient lacks the capacity to make a reasoned decision about the treatment;
 - vi) whether other less restrictive treatment methods have been explored and found to be inappropriate;
 - vii) the specific treatments proposed, including dosage range and/or frequency of administration, as applicable; and
 - viii) if the petition seeks authorization for testing and other procedures, the physician shall include a statement that such testing and procedures are essential for the safe and effective administration of the treatment.

- C) If the court grants the petition for involuntary treatment pursuant to Section 2-107.1 of the Code, the recipient may be administered treatment over his/her refusal for the guardian's or substitute decision maker's refusal if the recipient was legally incompetent but did not object within the constraints and for the duration of the court order.

d) Monitoring of treatment

- i) Documentation
 - A) The attending physician shall examine and document the status of the recipient's condition in the recipient's clinical record as often as the recipient's clinical condition warrants but no less often than every 30 calendar days. Documentation of the rationale for treatment, including type, dosage or frequency of the proposed treatment as applicable, shall be included. Beneficial effects and significant side effects as well as their treatment and/or management or the absence of treatment and/or management shall also be noted.
 - B) Facility staff shall document in the recipient's clinical record additional clinical information such as assessments,

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- evaluations or laboratory results as they become available.
- 2) Treatment review
 - A) When a recipient at a State-operated mental health facility has been receiving psychotropic medication and/or ECT continuously or regularly for a period of three months, and if such treatment is continued, every six months thereafter, for so long as the treatment shall continue, the facility medical director, or other physician designated by the facility director, shall convene a treatment review panel. The panel shall consist of representatives from at least two of the following clinical disciplines: psychiatry, medicine, clinical pharmacy and nursing. At least one panel member shall be a physician with expertise in the use of psychotropic medication (for example, psychiatrist or behavioral neurologist).
 - C) At least 7 days prior to the date of the treatment review panel meeting, the recipient, guardian or substitute decision maker, if any, and any person designated under Section 2-200(b) of the Mental Health and Developmental Disabilities Code shall be given written notification of the time and place of the treatment review panel meeting. The notice shall also advise the recipient of his/her right to designate some person to attend the meeting and assist the recipient in accordance with Section 2-107.2 of the Mental Health and Developmental Disabilities Code.
 - D) The panel shall provide a recommendation concerning the suitability of continued treatment.
 - E) If during the course of the treatment review panel meeting, the recipient advises the committee that he/she no longer agrees to continue receiving medication or ECT, or if the recipient has a guardian or substitute decision maker and the guardian or substitute decision maker refuses medication or ECT for the recipient, the treatment shall be discontinued, except when the recipient is receiving treatment pursuant to subsections (c)(1) and (c)(2) of this Section.
 - i) If the panel determines that the recipient is receiving appropriate treatment and that the benefit to the recipient outweighs the risk of harm to the recipient, treatment shall be continued, provided that the recipient does not object (and the guardian or substitute decision maker, if any, does not refuse). (See Section 2-107.2 of the Code).
 - ii) If the findings of the treatment review panel are not in agreement with the current treatment plan, revision shall be considered by the treatment/habilitation team.
 - iii) If there is disagreement on the implementation of the

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panel recommendations, the facility medical director or lead physician (designated by the facility director) shall review the case and make a final decision. The facility medical director (or lead physician) may consult with the appropriate Medical Coordinator in making a final determination.

- F) The participation of the recipient and guardian or substitute decision maker, if any, and the recommendations of the treatment review panel shall be recorded in the recipient's clinical record.

3) Annual ECT Report

The Department of Human Services shall summarize on an annual basis all quarterly reports (prepared in accordance with Section 2-110.1 of the Mental Health and Developmental Disabilities Code) from hospitals or facilities at which ECT is performed.

this Section addresses the initiation of drug treatment with psychotropic drugs (as defined in Section 119-80) in the newly admitted recipient and the ongoing monitoring of drug treatment thereafter. Each Department facility shall establish procedures consistent with this Section in accordance with professional practice requirements, Department directives, and the facility's organizational resources and clinical population. Professional practice means those practices which a licensed physician (the Medical Practice Act of 1987 (225-1605-603)) would use when exercising his or her professional clinical judgment in prescribing medication and which a licensed registered nurse (the Illinois Nursing Act of 1987 (225-1605-65)) would use when exercising his or her professional clinical judgment in administering medication.

a) Initiation of drug treatment

- 1) All recipients shall receive a medical history, physical examination, and either a psychiatric or in the case of developmentally disabled recipients, a psychological examination within 24 hours after their admission to a Department facility and those laboratory tests determined by a licensed physician when exercising his or her professional clinical judgment in administering medication shall be ordered.

- 2) No medication shall be prescribed for a recipient unless:
- A medical physician and either a psychiatrist or in the case of developmentally disabled recipients, a psychological examination of the recipient has been conducted and documented in the recipient's medical record; the prescribing physician shall conduct the examinations personally or shall review the record of the examinations; the prescribing physician shall record and sign the medical record; the recipient's mental status (as defined in the American Psychiatric Association's Psychiatric Glossary 5th Edition, Washington, D.C., 1980) the intended effects of the prescribed medication; and other pertinent information, such as the relationship of the drug therapy to

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other forms of treatment or habilitation and potential interaction with any other medication being delivered to the recipient or

- B) the prescribing physician has determined by personal observation in order to prevent physical harm to himself or herself or others; and shall so document this in the recipient's medical record; or
- C) the prescribing physician cannot immediately examine the recipient in person but has determined based on a description of the recipient's behavior, other medication, and known medical problems that immediate administration of psychotropic medication is in the recipient's best interest in order to prevent physical harm to himself or herself or others; the prescribing physician shall document this determination in the recipient's medical record within 48 hours after prescribing medication;
- 3) The prescribing physician may verbally (including by telephone) authorize the administration of medication; the prescribing physician shall dictate the oral medication order to a registered nurse pursuant to the Illinois Nursing Act (225-1605-65) and shall sign the order within 24 hours in each case; within 48 hours after any oral authorization the prescribing physician shall also enter a progress note in the recipient's record that states:
- The reasons for prescribing the psychotropic medication including the information given by the person requesting the prescription;
 - The medication's intended effect; and
 - When the reason the medication order was given verbally rather than after personal examination of the recipient:

- Whenever medication is administered pursuant to a verbal order the registered or licensed practical nurse who administers the drug shall immediately enter in the recipient's medical record a detailed description of the recipient's behavior prior to the administration of the drug and of the circumstances which in his or her opinion required the administration;
- Psychotropic drugs shall be prescribed for specific doses and time not to exceed 30 days;
- Ongoing monitoring of drug treatment
 - The attending physician shall review as often as the recipient's clinical condition warrants but no less often than once per month through personal examination of the recipient and/or the recipient's medical record and/or staff conference; the results of medication administered including both beneficial effects and side effects;
 - The attending physician shall document the status of the recipient's condition in the recipient's medical record as often

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(Source: Amended at 25 Ill. Reg. _____, effective _____)

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- as the recipient's clinical condition warrants, but no less often than once per month. Documentation of the rationale for the dose of medication shall be included in the progress notes and/or the treatment or rehabilitation plans no less often than once per month. Significant side effects that require those side effects of medications determined by a licensed physician when exercising his or her professional clinical judgment to be severe, dangerous, and/or annoying for the recipient (or their absence) shall be noted in the recipient's medical record.
- 3) Facility staff shall document in the recipient's medical record additional medical, psychiatric, psychological, and social history and psychiatric, psychological, and physical findings and laboratory results as this information becomes available.
- c) Reduction of the risk of tardive dyskinesia
- 1) Use of antipsychotic drugs shall be restricted to the treatment of psychotic disorders including schizophrenia, disorderly, reactive paranoid disorders, schizophrenia, manic episode, major depressive psychosis, atypical psychosis, manic episode, major depressive episode with psychotic features, infantile autism and toxic or organic psychosis, Tourette's disorders, and severe behavioral disturbance in a recipient having a developmental disability. Use in any other conditions shall be specially justified in the recipient's medical record.
- 2) Use of antipsychotic drugs for more than six months shall be prescribed only when a continuing response can be shown or when exacerbation occurs or has occurred upon cessation of medication. Whenever a recipient has received antipsychotic medication continuously for three months the recipient or if the recipient is under guardianship the guardian or if the recipient is a minor the recipient's parent or guardian shall participate in the decision regarding continuation of the recipient's medication based on the need to balance the risk of tardive dyskinesia with the risk of continuing or exacerbating or severe behavioral psychotic states, symptoms or severe behavior. If disturbance in a recipient having a developmental disability, the recipient is an adult not under guardianship and a clinical assessment of the recipient's intellectual and emotional capabilities, this assessment, the recipient's ability to meaningfully participate in this decision process, timely efforts shall be undertaken to obtain guardianship, the participation of the recipient, guardian or parent, and the decision regarding continuation of medication shall be recorded in the recipient's medical record. The recipient's response to medication shall be monitored and shall be re-evaluated with the participation of the recipient, guardian or parent at no less than six-month intervals, and this re-evaluation and participation shall be recorded in the recipient's medical record.
- 3) Whenever a recipient has received antipsychotic medication continuously for three months the recipient or if the recipient is under guardianship the guardian or if the recipient is a minor the recipient's parent or guardian shall participate in the decision regarding continuation of the recipient's medication based on the need to balance the risk of tardive dyskinesia with the risk of continuing or exacerbating or severe behavioral psychotic states, symptoms or severe behavior. If disturbance in a recipient having a developmental disability, the recipient is an adult not under guardianship and a clinical assessment of the recipient's intellectual and emotional capabilities, this assessment, the recipient's ability to meaningfully participate in this decision process, timely efforts shall be undertaken to obtain guardianship, the participation of the recipient, guardian or parent, and the decision regarding continuation of medication shall be recorded in the recipient's medical record. The recipient's response to medication shall be monitored and shall be re-evaluated with the participation of the recipient, guardian or parent at no less than six-month intervals, and this re-evaluation and participation shall be recorded in the recipient's medical record.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

1) Heading of the Part: Minimum Benefit Standards for Diabetes Coverage2) Code Citation: 50 Ill. Adm. Code 20193) Section Numbers: Proposed Action:

2019.10 New Section

2019.20 New Section

2019.30 New Section

2019.40 New Section

4) Statutory Authority: Implementing Section 356w and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/356w and 401].

5) A Complete Description of the Subjects and Issues Involved: There has been some confusion by industry on how to interpret coverage for durable medical equipment and pharmaceuticals/supplies under Section 356w of the Illinois Insurance Code. This new rule will clarify coverage concerns related to the same coverage, deductible, copayments and coinsurance for durable medical equipment and pharmaceuticals/supplies.

6) Will this proposed rule replace an emergency rule currently in effect? No7) Does this rule contain an automatic repeal date? No8) Does this proposed rule contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Denise Hamilton
Rules Unit Supervisor
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 785-8560

Eve Blackwell-Lewis
Staff Attorney
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 524-1634

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: No small businesses, small municipalities or

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

not for profit corporations will be affected by this new rule.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: January 2001

The full text of the Proposed Rules begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER 1: DEPARTMENT OF INSURANCEPART 2019
MINIMUM BENEFIT STANDARDS FOR DIABETES COVERAGE

Section

2019.10 Purpose

2019.20 Applicability and Scope

2019.30 Definitions

2019.40 Minimum Benefit Standards

AUTHORITY: Implementing Section 356w and authorized by Section 401 of the Illinois Insurance Code (215 ILCS 5/356w and 401).

SOURCE: Adopted at 25 Ill. Reg. _____, effective _____.

Section 2019.10 Purpose

The purpose of this Part is to establish minimum benefit standards for diabetic pharmaceuticals, supplies and durable medical equipment coverage to be provided in this State.

Section 2019.20 Applicability and Scope

This Part shall apply to all group accident and health policies and health maintenance organization group contracts which are amended, delivered, issued or renewed in this State after the effective date of this Part. This Part shall not apply to agreements, contracts or policies that provide coverage for a specified diagnosis or other limited benefit coverage.

Section 2019.30 Definitions

"Durable Medical Equipment" means blood glucose monitors, blood glucose monitors for the legally blind, cartridges for the legally blind and lancets and lancing devices.

"Pharmaceuticals and Supplies" means insulin, syringes, needles, test strips for glucose monitors, FDA approved oral agents used to control blood sugar and glucagon emergency kits.

Section 2019.40 Minimum Benefit Standards

- a) Coverage for durable medical equipment shall be subject to deductible, copayment, and coinsurance provisions provided for other durable medical equipment, depending on whether such coverage is provided under the policy or a durable medical equipment rider to the policy.

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- b) Such minimum benefit shall not apply to a group policy of accident and health insurance that does not provide durable medical equipment. Coverage for pharmaceuticals and supplies shall be subject to the same coverage, deductible, co-payment, and co-insurance provisions provided for other pharmaceuticals, depending on whether such coverage is provided under the policy or a drug rider to the policy. Such minimum benefit shall not apply to a group policy of accident and health insurance that does not provide drug coverage.

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Consignment of Licenses, Stamps and Permits

2) Code Citation: 17 Ill. Adm. Code 2520

3) Section Numbers:
2520.10
2520.50
Proposed Action:
Amendment

4) Statutory Authority: Implementing and authorized by Sections 1.4, 3.1, 3.2, 3.37, 3.38 and 3.39 of the Wildlife Code [520 ILCS 5/1.4, 3.1, 3.2, 3.37, 3.38 and 3.39] and Sections 1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120].

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to give non-Department staff running site specific hunts on non-State lands the ability to issue deer and turkey permits to hunters and to update an address.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:

DEPARTMENT OF NATURAL RESOURCES

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None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: July 2000

The full text of the Proposed Amendments begins on the next page:

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hereinafter referred to as "direct agents", upon receipt of their completed application, license vendor contract, evidence of financial responsibility, and fulfillment of the requirements set forth in this Part. The term "direct agent" means all persons authorized by the Department to sell licenses, stamps and permits other than elected or appointed officials and department employees. License vendors, including employees of the Department selling licenses, stamps and permits, shall collect an issuing fee in addition to the license stamp and permit fee as provided in 515 ILCS 5/20-120 and 520 ILCS 5/3.37 as follows: 75 cents for each Sportsmen's Combination license, and non-resident hunting license, and 50 cents for all other licenses, stamps and permits authorized by the above statutes. All licenses, stamps and permits consigned and fees collected from the sale of licenses, stamps and permits (except the authorized issuing fee) remain the property of the State of Illinois. Funds received from the sale of licenses, stamps and permits (except the authorized issuing fee) shall not be directed to any purpose other than remittance to the Department.

- b) County, city, village, township and incorporated town clerks may appoint sub-agents within the territorial area for which they are elected or appointed. Elected or appointed officials and Department employees selling licenses, stamps and permits are liable to the State for all licenses, stamps and permits consigned to their account, including any licenses, stamps and permits furnished by a clerk to any sub-agent. Any clerk appointing sub-agents must notify the Department, within 10 days following the appointment, the names and mailing addresses of such sub-agents. No part of the issuing fees collected may be retained as personal compensation by the clerk. Issuing fees may be divided between the clerk and appointed sub-agents other than employees of the Clerk's office, but in no case may any clerk and/or sub-agent charge an issuing fee or fees totaling more than the amounts set out in subsection (a) of this Section. DNR assumes no liability for any license, stamp or permit furnished by any elected or appointed clerk to any sub-agent. holding contracts with all direct agents, including concessionaires. The Department shall be required to furnish DNR with evidence of financial responsibility. Such evidence shall be in the form of a surety bond, letter of credit or certificate of deposit, in an amount equal to the value of licenses, stamps and permits consigned with the exception of direct agents with a preferred status. Direct agents must meet the following qualifications to receive a preferred status:
- 1) The direct agent must sell licenses, stamps and permits for one complete license year.
 - 2) The Department must have received a minimum of 9 monthly current license year remittances or no sales reports between April and December (inclusive).
- If these qualifications are met the direct agent's consignments may total 50% over the amount of their financial evidence. All direct

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TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER f: ADMINISTRATIVE SERVICES

PART 2520

CONSIGNMENT OF LICENSES, STAMPS AND PERMITS

Section	
2520.10	Consignment Requirements
2520.20	Issuing Licenses, Stamps and Permits
2520.30	Terms
2520.40	Credit to Vendor Accounts
2520.50	Issuance of Replacement Hunting, Fishing and Trapping Licenses, Stamps and Permits
2520.60	Sale of Licenses by Telephone or Electronic Transmission

AUTHORITY: Implementing and authorized by Sections 1.4, 3.1, 3.2, 3.37, 3.38 and 3.39 of the Wildlife Code [520 ILCS 5/1.4, 3.1, 3.2, 3.37, 3.38 and 3.39] and Sections 1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120].

SOURCE: Adopted and codified at 7 Ill. Reg. 8760, effective July 15, 1983; amended at 8 Ill. Reg. 5660, effective April 16, 1984; amended at 9 Ill. Reg. 14626, effective September 17, 1985; amended at 11 Ill. Reg. 4633, effective March 10, 1987; amended at 15 Ill. Reg. 7653, effective May 7, 1991; amended at 16 Ill. Reg. 8479, effective May 26, 1992; amended at 18 Ill. Reg. 9991, effective June 21, 1994; amended at 19 Ill. Reg. 7541, effective May 26, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 14417, effective October 25, 1996; amended at 21 Ill. Reg. 6483, effective May 19, 1997; amended at 22 Ill. Reg. 10466, effective June 1, 1998; amended at 23 Ill. Reg. 6818, effective May 20, 1999; amended at 24 Ill. Reg. 1641, effective January 13, 2000; amended at 25 Ill. Reg. _____, effective _____.

Section 2520.10 Consignment Requirements

- a) The Department of Natural Resources (DNR) has the authority to designate agents to sell licenses, stamps and permits on behalf of the Department. DNR consigns hunting, fishing, trapping and ginseng harvest licenses, migratory waterfowl, salmon and wildlife conservation stamps, and archery permits. Hereinafter referred to as licenses, stamps and permits, for sale by county, city, village, township and incorporated town clerks, upon receipt of their completed application and elected official license vendor contract, and fulfillment of requirements set forth in this Part. The Department also consigns the licenses, stamps and permits to other persons,

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agents with a preferred status will be reviewed annually. If qualifications have been met, the preferred status will continue for the following license year. If the qualifications have not been met, the preferred status is removed and the direct agent will be assigned licenses, stamps and permits equal to the amount of financial evidence. Surety bonds and letters of credit shall be on a form furnished by and approved by DNR, with surety or sureties satisfactory to DNR, conditioned upon such agents paying to the State of Illinois all monies becoming due by reason of the sale of licenses, stamps and permits. No direct agent may appoint sub-agents.

- d) Agents, other than Department staff, issuing gun permits for deer and turkey hunting during special hunts on non-Department property, as defined in 17 Ill. Adm. Code 650.22(a) and 17 Ill. Adm. Code 660.22(a), will complete a written financial guarantee and fulfill the requirements set forth in this part. All permits consigned and fees collected remain the property of the State of Illinois. Funds received from the sale of permits shall not be directed to any purpose other than remittance to the Department. Agents will not be consigned more than 100 permits of a specific type.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 2520.50 Issuance of Replacement Hunting, Fishing and Trapping Licenses, Stamps and Permits

- a) The Department will issue replacements for lost hunting, fishing, Sportman's Combination, Ginseng harvester, commercial licenses and permits, trapping licenses, Illinois stamps and archery permits. A fee of \$3.00 per license, stamp or permit will be charged to defray the cost of handling.
- b) The Department will issue replacements at no cost when the Department loses the Sportman's hunting, fishing, Sportman's Combination, Ginseng Harvester, or trapping licenses, stamps or archery permits.
- c) The procedure for obtaining a replacement license, stamp or permit is as follows:

- 1) Individual loss - The individual requesting the replacement should obtain from the vendor from which the original license, stamp or permit was purchased, a copy (or the original) of the license, stamp or permit application. If the application is unavailable, the individual may obtain "A Replacement License/Stamp/Permit Application" from any license vendor or the Department. "A Replacement License/Stamp/Permit Application" must be notarized to ensure that the application is accurate and non-fraudulent. The copy of the original application, or properly completed and notarized "A Replacement License/Stamp/Permit Application" should then be forwarded with the \$3.00 fee per license, stamp or permit to any of the

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following offices:

- A) Illinois Department of Natural Resources
P.O. Box 19459
Springfield, IL 62794-9459
- B) Illinois Department of Natural Resources
2317 E. Lincolnway - Suite A 6612-Becust-Street
Sterling, IL 61081
- C) Illinois Department of Natural Resources
110 James Road
Spring Grove, IL 60081
- D) Illinois Department of Natural Resources
2005 Round Barn Road
Champaign, IL 61821
- E) Illinois Department of Natural Resources
4521 Alton Commerce Parkway
Alton, IL 62002
- F) Illinois Department of Natural Resources
11731 State Highway 37
Benton, IL 62812
- G) Illinois Department of Natural Resources
100 West Randolph
Suite 4 - Room 300
Chicago, IL 60601

- 2) Department loss - The Department location requesting the replacement should complete on agency letterhead a request for a replacement and forward the request to: Department of Natural Resources, Replacements, 524 S. Second Street, Springfield, IL 62701. The request should be completed in triplicate with one copy retained at the location and one copy given to the person whose license, stamp or permit was lost. This copy of the request will allow the person to hunt or fish in the interim between receiving a replacement. Information contained in the replacement request letter must include:

- A) date of the letter;
- B) indication that the letter may be used by the person in lieu of a license, stamp or permit for up to 30 days from the date on the letter;
- C) Department location requesting the replacement (including address and contact phone number);
- D) the name, complete mailing address, county of residence, date of birth, height, weight, hair color, eye color and daytime phone number of the person receiving the replacement;
- E) indication of what licenses, stamps or permits need to be replaced;
- F) the printed or typed names and signatures and the date of signature of the authorized persons at the Department location issuing the replacement letter and the location

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

supervisor.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)
- 2) Code Citation: 89 Ill. Adm. Code 149
- 3) Section Numbers: Proposed Action:
149.75 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments eliminate the coding attestation requirements that are currently a condition for payment for inpatient services under the DRG Prospective Payment System. Hospitals retain coding attestations on file, signed by the Health Information Management Director, that certify the accuracy and completeness of procedures and diagnoses based upon medical record contents. After the Health Care Financing Administration discontinued requirements for such procedures for Medicare discharges in 1995, the Department retained coding attestation requirements for accountability purposes and because attestations have the potential to be useful in pursuing fraud investigations. However, a review of these procedures shows that coding attestations have not been used in any investigations. Because of this, and because attestation requirements place an unnecessary burden on hospitals, the Department is proposing to eliminate these requirements.
- These proposed amendments will not result in any budgetary changes.
- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Office of the General Counsel, Rules Section

DEPARTMENT OF PUBLIC AID
NOTICE OF PROPOSED AMENDMENTS
TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 149

DIAGNOSIS RELATED GROUPING (DRG) PROSPECTIVE PAYMENT SYSTEM (PPS)

Section	
149.5	Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)
149.10	Applicability of Other Provisions
149.25	General Provisions
149.50	Hospital Services Subject to and Excluded from the DRG Prospective Payment System
149.75	Conditions for Payment Under the DRG Prospective Payment System
149.100	Basic Methodology for Determining DRG Prospective Payment Rates
149.105	Payment For Outlier Cases
149.125	Special Treatment of Certain Facilities
149.140	Methodology for Determining Primary Care Access Health Care Education Payments (Repealed)
149.150	Payments to Hospitals Under the DRG Prospective Payment System
149.175	Payments to Contracting Hospitals (Repealed)
149.200	Admitting and Clinical Privileges (Repealed)
149.205	Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Repealed)
149.225	Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Repealed)
149.250	Contract Monitoring (Repealed)
149.275	Transfer of Recipients (Repealed)
149.300	Validity of Contracts (Repealed)
149.305	Termination of ICARE Contracts (Repealed)
149.325	Hospital Services Procurement Advisory Board (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 140.940 thru 140.972 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. at 12095, effective July 15, 1988; amended at 13 Ill. Reg. 554, effective January 1, 1989; amended at 13 Ill. Reg. 15070, effective September 15, 1989; amended at 15 Ill. Reg. 1826, effective January 28, 1991; emergency amendment at 15 Ill. Reg. 16308, effective November 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 6195, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11937, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14733, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19868, effective December 7, 1992; amended at 17 Ill. Reg. 3217, effective March 1, 1993; emergency amendment at 17 Ill. Reg. 17275, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3378, effective February 25,

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Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded hospitals that receive reimbursement under the Diagnosis Related Grouping (DRG) Prospective Payment System (PPS) are affected by this proposed rulemaking.
- B) Reporting, bookkeeping or other procedures required for compliance: None

- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this Rulemaking Was Summarized: January 2001

The full text of the Proposed Amendment begins on the next page:

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1994; amended at 19 Ill. Reg. 10674, effective July 1, 1995; amended at 21 Ill. Reg. 2238, effective February 3, 1997; emergency amendment at 22 Ill. Reg. 13064, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19866, effective October 30, 1998; amended at 25 Ill. Reg. _____, effective _____.

Section 149.75 Conditions for Payment Under the DRG Prospective Payment System

- a) General Requirements
 - 1) A hospital must meet the conditions of this Section to receive payment under the DRG PPS for inpatient hospital services furnished to persons receiving coverage under the Medicaid program.
 - 2) If a hospital fails to comply fully with these conditions with respect to inpatient hospital services furnished to one or more Medicaid clients, the Department may, as appropriate:
 - A) Withhold Medicaid payment (in full or in part) to the hospital until the hospital provides adequate assurances of compliance; or
 - B) Terminate the hospital's Provider Agreement pursuant to 89 Ill. Adm. Code 140.16.
 - b) Hospital Utilization Control. Hospitals and distinct part units that participate in Medicare (Title XVIII) must use the same utilization review standards and procedures and review committee for Medicaid as they use for Medicare. Hospitals and distinct part units that do not participate in Medicare (Title XVIII) must meet the utilization review plan requirements in 42 CFR, Ch. IV, Part 456 (OCTOBER 1, 1999)-Subparts E-F or B-f October-1994. Utilization control requirements for inpatient psychiatric hospital care in a psychiatric hospital, as defined in Section 149.50(c)(1), shall be in accordance with federal regulations at 42-CFR--64--IV--Part-456-Subpart-6-f October-1994.
 - c) Medical Review Requirements: Admissions and Quality Review. Hospital utilization review committees, a subgroup of the utilization review committee, or the hospital's designated professional review organization (PRO) shall review, on an ongoing basis, the following:
 - 1) The medical necessity, reasonableness and appropriateness of inpatient hospital admissions and discharges.
 - 2) The medical necessity, reasonableness and appropriateness of inpatient hospital care for which additional payment is sought under the outlier provisions of Section 149.105.
 - 3) The validity of the hospital's diagnostic and procedural information.
 - 4) The completeness, adequacy and quality of the services furnished in the hospital.
 - 5) Other medical or other practice with respect to program participants or billing for services furnished to program participants.

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- d) Medical Review Requirements: DRG Validation
 - 1) Coding attestation. Beginning with admissions on or after March 1, 1997, and ending with admissions on or after June 1, 2001, the Health Information Management Director (Medical Records) or his or her designee(s) within the Health Information Management Department must, shortly before, at, or shortly after discharge (but before a claim is submitted), attest to the principal and secondary diagnoses, and major procedures as indicated in the medical record. Below the diagnostic and procedural information, and on the same page, the following statement must immediately precede the signature of the Health Information Management Director or his or her designee(s) within this Department: "I certify that the ICD-9-CM coding of principal and secondary diagnoses and the major procedures performed are accurate and complete based on the contents of the medical record, to the best of my knowledge." The name of the person signing the attestation must be typed or clearly printed and appear on the same page as the signature.
 - 2) DRG Validation. The Department or its designee may require and perform prepayment review and/or postpayment review of specific diagnosis and procedure codes.
 - 3) Sample Reviews
 - A) The Department, or its designee, may review a random sample of discharges to verify that the diagnostic and procedural coding, submitted by the hospital and used by the Department for DRG assignment, is substantiated by the corresponding medical records.
 - B) Code validation must be done on the basis of a review of medical records and, at the Department's discretion, may take place at the hospital or away from the hospital site.
 - 4) Revision of Coding
 - A) If the diagnostic and procedural information, in compliance with the coding attestation requirements in subsection (d)(1) of this Section, attested-to-by-the-Health-Information-Management-Director-or-his-or-her-designee(s)-within-the-Health-Information-Management-Department-is found to be inconsistent with the hospital's coding, the hospital shall be required to provide the appropriate coding and the Department shall recalculate the payment on the basis of the revised coding.
 - B) If the information, in compliance with the coding attestation requirements in subsection (d)(1) of this Section, attested-to-by-the-Health-Information-Management-Director-or-his-or-her-designee(s)-within-the-Health-Information-Management-Department-is found not to be consistent with the medical record, the hospital shall be required to provide the appropriate coding and the Department shall

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recalculate the payment on the basis of the revised coding.
e) Medical Review Requirements: The Department, or its designee, may conduct pre-admission, concurrent, pre-payment, and/or post-payment reviews of:

- 1) The medical necessity, reasonableness and appropriateness of inpatient hospital admissions and discharges.
 - 2) The quality and/or the nature of the utilization of health services.
 - 3) The medical necessity, reasonableness and appropriateness of inpatient hospital care for which additional payment is sought under the outlier provisions of Section 149.105.
 - 4) The validity of the hospital's diagnostic and procedural information.
 - 5) The completeness, adequacy and quality of the services furnished in the hospital.
 - 6) Other medical or other practices with respect to program participants or billing for services furnished to program participants.
- f) Hospitals shall be notified at least 30 days in advance of any pre-admission, concurrent, or pre-payment review requirements imposed by the Department.
- g) Denial of Payment as a Result of Admissions, Length of Stay, Transfers and Quality Review
- 1) If the Department determines that a hospital has misrepresented admissions, length of stay, discharges, or billing information, or has taken an action that results in the unnecessary admission or inappropriate discharge of a program participant, unnecessary multiple admissions of a program participant, unnecessary transfer of a program participant, or other inappropriate medical or other practices with respect to program participants or billing for services furnished to program participants, the Department may, as appropriate:
 - A) Deny payment (in whole or in part) with respect to inpatient hospital services provided with respect to such an unnecessary admission, inappropriate length of stay or discharge, subsequent readmission or transfer of an individual.
 - B) Require the hospital to take action necessary to prevent or correct the inappropriate practice.
 - C) Perform prepayment review in accordance with 89 Ill. Adm. Code 148.240(c).

- 2) When payment with respect to the discharge of an individual patient is denied by the Department, or its designee, under subsection (g)(1)(A) of this Section above, a reconsideration will be provided within 30 days, upon the request of a practitioner or provider, if such request is the result of the designee's own medical necessity or appropriateness of care denial determination and is received within 60 days after the

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Advisory Notice. The date of the Advisory Notice is counted as day one.

- 3) A determination under subsection (g)(1) of this Section above, if it is related to a pattern of inappropriate admissions, length of stay and billing practices that has the effect of circumventing the prospective payment system, may result in actions specified in subsection (a)(2) of this Section above.

h) Furnishing of Inpatient Hospital Services Directly or Under Other Arrangements

- 1) The applicable payments made under the PPS are payment in full for all inpatient hospital services other than for the services of non hospital-based physicians to individual program participants and the services of certain hospital-based physicians as described in subsections (h)(1)(B)(i) through (h)(1)(B)(v) of this Section below.

A) Hospital-based physicians who may not bill separately on a fee-for-service basis

- i) A physician whose salary is included in the hospital's cost report for direct patient care may not bill separately on a fee-for-service basis.

- ii) A teaching physician who provides direct patient care may not bill separately on a fee-for-service basis if the salary paid to the teaching physician by the hospital or other institution includes a component for treatment services.

B) Hospital-based physicians who may bill separately on a fee-for-service basis

- i) A physician whose salary is not included in the hospital's cost report for direct patient care may bill separately on a fee-for-service basis.

- ii) A teaching physician who provides direct patient care may bill separately on a fee-for-service basis if the salary paid to the teaching physician by the hospital or other institution does not include a component for treatment services.

- iii) A resident may bill separately on a fee-for-service basis when, by the terms of his or her contract with the hospital, he or she is permitted to and does bill private patients and collect and retain the payments received for those services.

- iv) A hospital-based specialist who is salaried, with the cost of his or her services included in the hospital reimbursement costs, may bill separately on a fee-for-service basis when, by the terms of his or her contract with the hospital, he or she may charge for professional services and do, in fact, bill private patients and collect and retain the payments received.
- v) A physician holding a non teaching administrative or

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staff position in a hospital or medical school may bill separately on a fee-for-service basis to the extent that he or she maintains a private practice and bills private patients and collects and retains payments made.

- 2) Charges are to be submitted on a fee-for-service basis only when the physician seeking reimbursement has been personally involved in the services being provided. In the case of surgery, it means presence in the operating room, performing or supervising the major phases of the operation, with full and immediate responsibility for all actions performed as a part of the surgical treatment.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 69 Ill. Adm. Code 148
- 3) Section Numbers: Proposed Action:
148.82 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (305 ICS 5/12-13)
- 5) A Complete Description of the Subjects and Issues Involved: These proposed amendments provide changes in the Department's administrative rules concerning organ transplant services to allow coverage for inpatient and outpatient stem cell transplants. Transplant centers providing outpatient adult and pediatric stem cell transplants will be required to meet all of the certification criteria for hospitals that perform inpatient bone marrow transplants, as described in Section 148.82. The transplant center will also be required to be part of a certified inpatient transplant program that has been in operation for at least two years.

Other proposed amendments to Section 148.82 add clarifications that the Department will cover organ transplants for aliens who have been lawfully admitted for permanent residence in the United States under color of law pursuant to 42 USC 1396a(a) and 1396b(v).

These proposed amendments are not expected to result in any budgetary changes.

- 6) Will this rulemaking replace any emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
148.70	Amendment	25 Ill. Reg. 2260, 2/9/01
148.296	Amendment	24 Ill. Reg. 18984, 12/29/00

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENT

Joanne Jones
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Section 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Hospitals that are certified as organ transplant centers

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER 1: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 148
HOSPITAL SERVICES

Section	
148.10	Hospital Services
148.20	Participations
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services
148.80	Organ Transplant Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.90	Heart Transplants (Repealed)
148.100	Liver Transplants (Repealed)
148.110	Bone Marrow Transplants (Repealed)
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services
148.150	Public Law 103-66 Requirements
148.160	Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
148.170	Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
148.175	Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
148.180	Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
148.190	Copayments
148.200	Alternate Reimbursement Systems
148.210	Filing Cost Reports
148.220	Pre September 1, 1991 Admissions
148.230	Admissions Occurring on or after September 1, 1991
148.240	Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
148.250	Determination of Alternate Payment Rates to Certain Exempt Hospitals
148.260	Calculation and Definitions of Inpatient Per Diem Rates
148.270	Determination of Alternate Cost Per Diem Rates for All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
148.280	Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
148.285	Excellence in Academic Medicine Payments

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- 148.290 Adjustments and Reductions to Total Payments
 148.295 Critical Hospital Adjustment Payment (CHAP)
 148.296 Supplemental Critical Hospital Adjustment Payments (SCHAP)
 148.297 Pediatric Outpatient Adjustment Payments
 148.298 Pediatric Inpatient Adjustment Payments
 148.300 Payment
 148.310 Review Procedure
 148.320 Alternatives
 148.330 Exemptions
 148.340 Substance Alcoholism and Substance Abuse Treatment Services
 148.350 Definitions (Repealed)
 148.360 Types of Substance Alcoholism and Substance Abuse Treatment Services (Repealed)
 148.368 Volume Adjustment (Repealed)
 148.370 Payment for Substance Alcoholism and Substance Abuse Treatment Services
 148.380 Rate Appeals for Substance Alcoholism and Substance Abuse Treatment Services (Repealed)
 148.390 Hearings
 148.400 Special Hospital Reporting Requirements

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended

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at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 9281, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. _____, effective _____.

Section 148.82 Organ Transplant Services

- a) Introduction
 The Department of Public Aid will cover organ transplants as

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identified under subsection (b) of this Section that are provided to United States citizens or aliens who are lawfully admitted for permanent residence in the United States under color of law pursuant to 42 USC 1396a(a) and 1396b(v). Such services must be below—which are provided by certified organ transplant centers which meet the requirements specified in subsections (c) through (h) of this Section.

- b) Covered Services
 - 1) inpatient bone-marrow heart, heart/lung, lung (single or double), liver, pancreas or kidney/pancreas transplantation. Inpatient bone marrow transplants, inpatient and outpatient stem cell transplants.
 - 2) inpatient intestinal intestine (small bowel or liver/small bowel) transplantation for children only (see subsection (d)(1)(H) of this Section).
 - 3) Other types of transplant procedures may be covered when a hospital has been certified by the Department as a transplant center eligible to perform such transplants. Centers must complete the certification process established in subsection (c) of this Section and provide the necessary documentation of the number of transplant procedures performed and the survival rates.
 - 4) Medically necessary work-up.
- c) Certification Process
 - 1) In order to be certified to receive reimbursement for transplants performed on Medical Assistance and KidCare Medicaid patients, the hospital must:
 - A) Request an application from the Bureau of Comprehensive Health Services;
 - B) Submit a completed application to the Department for the type of transplant for which the center is seeking certification;
 - C) Meet certification criteria established in subsection (d) of this Section, based upon review and recommendation of each application by the State Medical Advisory Committee (SMAC); and
 - D) Submit a detailed status report on each patient for the type of transplant for which the hospital is seeking certification. Such reports must include the patient's diagnosis, date of transplant, the length of hospitalization, charges, survival rates, patient-specific transplant outcome, and complications (including cause of death, if applicable) for all transplants performed in the time frames required for the type of transplant indicated in subsections (d)(1)(C), (D), (E), (F), (G), (H), (I) or (J) of this Section. To protect the privacy of patients included in this report, names of non-Medicaid patients who are not covered under Medical Assistance or KidCare are not required.
 - 2) The Department shall notify the hospital of approval or denial of

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the hospital as a transplant center for Medical Assistance and KidCare Medicaid eligible patients.

- 3) In the event that no hospital formally certified by the Department is able to provide a covered service set forth in subsection (b) of this Section within the time frame necessary to preserve the recipient's health, the Department shall review a request for prior approval of the service from a non-certified facility, and if the facility satisfies the criteria for certification, approve the request on an individual case basis.
- 4) A joint application combining the statistical data for the adult and pediatric programs from two affiliated hospitals that share the same surgeons may be submitted for review by the State Medical Advisory Committee. The hospitals must meet the criteria under subsections (d)(1)(A), (B), (J), (K), (L), (M), (N), (O), and (P), the applicable criteria under subsections (d)(1)(C), (D) or (I) and (d)(1)(Q), subsections (j)(2), (3) and (4), and subsection (e) of this Section for certification, and recertification.
- d) Certification Criteria
 - 1) Hospitals seeking certification as a transplant center shall submit documentation to verify that:
 - A) The hospital is capable of providing all necessary medical care required by the transplant patient;
 - B) The hospital is affiliated with an academic health center;
 - C) The hospital has had the transplant program for inpatient adult heart and liver transplants in operation for at least three years with 12 transplant procedures per year for the past two years and 12 cases in the three year period preceding the most current two year period for adult heart and liver transplants;
 - D) The hospital has had the transplant program for inpatient adult heart/lung and lung transplants in operation for at least three years with ten transplant procedures per year for the past two years and ten cases in the three year period preceding the most current two year period for adult heart/lung and lung transplants;
 - E) A hospital specializing in inpatient pediatric heart/lung and lung transplants has had a program in operation for at least three years and has performed a minimum of six transplant procedures per year for the past two years, and six procedures in the three year period preceding the most current two year period;
 - F) The hospital has had the transplant program for inpatient adult and pediatric bone marrow transplants in operation for at least two years with 12 transplant procedures per year for the past two years;
 - G) The hospital performing outpatient adult and pediatric stem cell transplants must be part of a certified inpatient

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program and must have been in operation for at least two years with at least 12 outpatient stem cell transplant procedures per year in the past two years.

HE) A hospital specializing in inpatient pediatric heart or liver transplants, or both, has had a program in operation for at least three years and has performed a minimum of six transplant procedures per year for the past two years, and six procedures in the three year period preceding the most current two year period; or 12 transplant procedures in the three year period preceding the most current two year period.

IH) A hospital specializing in inpatient pediatric intestinal (small bowel or liver/small bowel) transplants has had a program in operation for at least three years and has performed a minimum of six transplant procedures per year for the past two years, and six procedures in the three year period preceding the most current two year period; or 12 transplant procedures in the three year period preceding the most current two year period.

II) A hospital specializing in inpatient kidney/pancreas and/or pancreas transplants has had the transplant program in operation for at least three years with 25 kidney transplant procedures per year for the past two years and 25 cases in the three year period preceding the most current two year period, and five pancreas transplant procedures per year for the past two years and five in the three year period preceding the most current two year period, or 12 kidney/pancreas transplant procedures per year for the past two years and 12 in the three year period preceding the most current two year period.

IG) The hospital has experts, on staff, in the fields of cardiology, pulmonology, anesthesiology, immunology, infectious disease, nursing, social services, organ procurement, associated surgery and internal medicine to complement the transplant team. In addition, in order to qualify as a transplant center for pediatric patients, the hospital must also have experts in the field of pediatrics; LE) The hospital has an active cardiovascular medical and surgical program as evidenced by the number of cardiac catheterizations, coronary arteriograms and open heart procedures per year for heart and heart/lung transplant candidates;

IF) The hospital has pathology resources that are available for studying and reporting the pathological responses for transplantation as supported by appropriate documentation;

IN) The hospital complies with applicable State and federal laws and regulations;

ON) The hospital participates in a recognized national donor procurement program for organs or bone marrow provided by unrelated donors, abides by its rules, and provides the Department with the name of the national organization of which it is a member;

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PH) The hospital has an interdisciplinary body to determine the suitability of candidates for transplantation as supported by appropriate documentation;

QF) The hospital has blood bank support necessary to meet the demands of a certified transplant center as supported by appropriate documentation; and

RG) The hospital meets the applicable transplant other methods as supported by the Kaplan-Meier method or other method accepted by the Department:

i) A one-year survival rate of 50 percent for inpatient bone marrow and inpatient and outpatient stem cell transplant patients;

ii) A one-year survival rate of 75 percent and a two-year survival rate of 60 percent for heart transplant patients;

iii) A one-year survival rate of 75 percent and a two-year survival rate of 60 percent for liver transplant patients;

iv) A one-year survival rate of 90 percent for kidney transplant and a one-year survival rate of 80 percent for pancreas transplant; or a one-year survival rate of 80 percent for kidney/pancreas transplant patients;

v) A one-year survival rate of 85 percent and a two-year survival rate of 60 percent for heart/lung and lung (single or double) transplant patients;

vi) A one-year survival rate of 80 percent and a two-year survival rate of 55 percent for intestinal transplants (small bowel or liver/small bowel).

2) The commitment of the hospital to support the transplant center must be at all levels as evidenced by such factors as financial resources, allocation of space and the support of the professional staff for the transplant program and its patients. The hospital must submit appropriate documentation to demonstrate that:

A) Component teams are integrated into a comprehensive transplant team with clearly defined leadership and responsibility;

B) The hospital safeguards the rights and privacy of patients; C) The hospital has adequate patient management plans and protocols to meet the patient and hospital's needs.

3) The hospital must identify, in writing, the director of the transplant program and the members of the team as well as their qualifications. Physician team members must be identified as board certified, in preparation for board certification, or pending board certification, and the transplant coordinator's name must be submitted.

4) The hospital must provide patient selection criteria including indications and contraindications for the type of transplant

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procedure for which the facility is seeking certification.

- e) Recertification Process/Criteria
 - 1) The Department will conduct an annual review for certification of transplant centers. A certified center must submit documentation established under subsections (c), (d), (f) and (h) of this Section for review by the Department's State Medical Advisory Committee for recertification as a transplant center.
 - 2) Survival rates of previous transplant patients must be documented prior to certification. The center must maintain patient volume in the year of certification based on previous transplant statistics.
 - 3) The Department shall notify the hospital of approval or denial of the recertification of the hospital as a transplant center.
 - 4) If the hospital has previously met the requirements for certification or recertification of its program under subsections (d)(1)(J), (K), (L), (M), (N), (O), (P) and (Q) and (d)(2), (3) and (4) of this Section and the program has experienced no changes under the above subsections, as evidenced in written documentation on the hospital's application, the hospital will not be required to resubmit the same data.
 - 5) If a center has previously met the requirements for certification or recertification of its program under subsections (d)(1)(K), (L), (M), (N), (O), (P), (Q) and (R)(1) through (R)(vi) through-~~to~~ but has performed fewer than the required number of transplants pursuant to subsections (d)(1)(C), (D), (E), (F), (G), (H), or (I), as appropriate, the Department may recertify the center if it determines that the best interests of the Medical Assistance or KidCare Medicaid client eligible for transplant services would be served by allowing continued certification of the center. Criteria the Department may consider in making such a determination include, but are not limited to:
 - A) Not recertifying a center would limit the accessibility of available organs.
 - B) Other centers are not accepting new patients or have extensive waiting lists.
 - C) The distance to other eligible centers would jeopardize the client's opportunity to receive a viable organ/tissue transplant.
- f) Notification of Transplant
 - 1) The hospital must notify the Department prior to performance of the transplant procedure. The notification letter must be from a physician on the transplant team.
 - 2) The notification must include the admission diagnosis and pre-transplant diagnosis.
 - 3) The Department shall notify the hospital regarding receipt of the notification and provide the appropriate outcome summary forms to the hospital.

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g) Reimbursement

- 1) Hospital services rendered for transplant procedures under this Section are exempt from the provisions of Sections 148.250 through 148.330 and the 89 Ill. Adm. Code 149 of the Department's administrative rules governing hospital reimbursement. Hospital reimbursement for transplants covered within this Section is an all-inclusive rate for the admission, regardless of the number of days of care associated with that admission, which is limited to a maximum of 60 percent of the hospital's usual and customary charges to the general public for the same procedure for a maximum number of days listed below for specific types of transplants:
 - A) 30 consecutive days of post-operative inpatient care for heart, heart/lung, lung (single or double), pancreas, or kidney/pancreas transplant; or
 - B) 40 consecutive days of post-operative inpatient care for liver transplant; or
 - C) 50 consecutive days of post-operative inpatient care for bone marrow transplant (this includes a maximum of seven days prior to the transplant for infusion of chemotherapy); or
 - D) 50 consecutive days of care for an inpatient or outpatient stem cell transplant; or
 - E) 70 consecutive days of post-operative inpatient care for intestinal (small bowel or liver/small bowel) transplants; or
 - F) For those transplants covered under subsection (b)(2) of this Section, the number of consecutive days of inpatient care specified within the transplant certification process.
- 2) Reimbursement will be approved only when the Department's letter acknowledging the notification of the transplant procedure is attached to the hospital's claim. Reimbursement will not be made until the discharge summary has been submitted to the Department.
- 3) Applicable disproportionate share payment adjustments shall be made in accordance with Section 148.120(g). Applicable outlier adjustments shall be made in accordance with Section 148.130. Applicable Medicaid High Volume adjustments shall be made in accordance with Section 148.290(3).
- 4) The rate will not include transportation and physician fees when reimbursed pursuant to 89 Ill. Adm. Code 140.410 through 140.414 and 140.430 through 140.492, respectively.
- 5) Hospital reimbursement for bone marrow searches is limited to 60 percent of charges up to a maximum of \$25,000. Payment for bone marrow searches will only be made to the certified center requesting reimbursement for the bone marrow transplant.
- 6) Reimbursement for stem cell acquisition charges which includes the mobilization, chemotherapy, cytokines and apheresis processes must be billed under the appropriate revenue code on the claim submitted for the transplant procedure.

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h) Reporting Requirements of Certified Transplant Center

The following documentation must be submitted within the time limits set forth in this subsection (b).

1) Outcome Summary

A) The discharge summary for each Medical Assistance and KidCare ~~Medicaid~~ patient must be received by the Department within 30 days after the patient's discharge.

B) For those Medical Assistance and KidCare ~~Medicaid~~ patients who expire, a summary must be received by the Department within 30 days after the patient's death.

2) Notification of Changes

The center must notify the Department within 30 days after any changes in its program, including, but not limited to, certification criteria, patient selection criteria, members of the transplant team and the coordinator.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Reimbursement for Nursing Costs for Geriatric Facilities
- 2) Code Citation: 89 Ill. Adm. Code 147
- 3) Section Numbers: Proposed Action:
 147.300 Amendment
 147.301 New Section
 147.305 Repeal
 147.310 Repeal
 147.315 Repeal
 147.320 Repeal
 147.325 Repeal
 147.330 Repeal
 147.340 Repeal
 147.345 Repeal

- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/5-5.5(d) and 5/12-13]

Complete Description of the Subjects and Issues Involved: These proposed amendments to Part 147 of the Department's administrative rules pertain to psychiatric rehabilitation service requirements for persons with mental illness who reside in nursing facilities. These changes on mental illness services are companion amendments to new proposed administrative rules at 89 Ill. Adm. Code 145 that relate to institutions for Mental Diseases. Additionally, several sections pertaining to psychiatric rehabilitation services are being proposed for repeal because they will no longer be applicable with the adoption of these proposed changes.

This proposed rulemaking specifies payment provisions for nursing facilities for services provided to residents who have a primary diagnosis of mental illness and indicates that such payment will be dependent upon facility compliance with all criteria found in the Department of Public Health's (DPH) rules at 77 Ill. Adm. Code 300.40000 through 300.4090. The proposed amendments also describe sanctions for facility noncompliance with DPH standards.

These changes to Part 147 are necessary to comply with the requirements of Public Act 91-0799 which directs the Department to propose rulemaking that addresses requirements and payments for nursing facilities providing services for resident who have a serious mental illness.

Since reimbursements for nursing facilities affected by this proposed rulemaking will remain at the level in effect on January 1, 2001, these changes will not result in any significant budgetary changes.

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- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Nursing facilities serving residents with mental illness
- B) Reporting, bookkeeping or other procedures required for compliance:

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None

- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this Rulemaking Was Summarized: January 2001

The full text of the proposed amendments begins on the next page:

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Section 147.300 Payment to Nursing Facilities Serving Persons with Mental Illness Determination of Program (Psychiatric Rehabilitation Services) Costs

a) Reimbursement rates for nursing facilities (ICF and SNF) for program costs associated with the delivery of psychiatric rehabilitation services to residents with mental illness will remain at the level in effect on January 1, 2001, except as may otherwise be provided by 305 ILCS 5/5-5.4 and 99 Ill. Adm. Code 153.

b) Payment for services provided by nursing facilities for residents who have a primary diagnosis of mental illness will be dependent upon the facility meeting all criteria specified in 77 Ill. Adm. Code 300.4000 through 300.4090.

a) The Department reimburses residential facilities for program costs associated with the delivery of psychiatric rehabilitation services to individuals with mental illness according to information obtained during each facility's most recent inspection of care (1989) review conducted by Department staff. The category of facilities which is affected by Sections 147.390 through 147.350 is nursing facilities (NRF) with at least one individual with mental illness determined to require psychiatric rehabilitation services. I989 review assessments of 100% of the Medicaid residents are conducted in these facilities every twelve (12) months. Total program reimbursement determination is based upon I989 review criteria specified in Sections 147.5 through 147.350.

AGENCY NOTE: Omnibus Budget Reconciliation Act of 1987 (P.L. 100-203) requirements prohibit the admission of an individual who is mentally ill into nursing facilities on or after January 1, 1989, unless the state mental health authority has determined that this level of service is required. However, if an individual does not require nursing facility services but does require specialized services and the individual has resided in the facility for thirty (30) continuous months or longer, and the resident chooses to remain in the facility, specialized services must be provided and reimbursement will be made by the Department as determined by I989 assessments.

b) Reimbursement for services under Sections 147.390 through 147.350 does not include services to maintain generally independent individuals who are able to function with little supervision or in the absence of a continuous psychiatric rehabilitation services program.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 147.301 Sanctions for Noncompliance

Based on a finding of noncompliance by the Department of Public Health on the part of a nursing facility with any requirement for providing services to persons with mental illness pursuant to 77 Ill. Adm. Code 300.4000 through

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300.4090, the Department may take action to terminate or suspend the facility pursuant to 89 Ill. Adm. Code 140.16 and 140.19 or recommend to the Department of Public Health imposition of any of the remedies or penalties available under the Nursing Home Care Act (220 ILCS 45/3-101).

(Source: Added at 25 Ill. Reg. _____, effective _____.)

Section 147.305 Psychiatric Rehabilitation Service Requirements for Individuals With Mental Illness in Residential Facilities (Repealed)

a) Facilities serving individuals with mental illness must provide a continuous psychiatric rehabilitation service program for each individual as required by Section 1919(14) of the Social Security Act (42 U.S.C. 1996r). This program is directed toward:

- 1) The acquisition of behaviors and skills necessary to reach the highest practical functional level of self-determination and independence in the areas of self-maintenance, social functioning, community living activities, and work-related skills; and
- 2) The reduction of residual psychiatric symptoms with the prevention or deceleration of regression or loss of current optimal functional status.

b) The psychiatric rehabilitation service program for each individual must be delivered through the implementation of a comprehensive program plan (CPP) consisting of interventions and services which are designed to meet the individual's needs with continuity across all of the environments in which the individual lives. The CPP is a plan where psychiatric rehabilitation services programming and interventions are consistently implemented throughout the day regardless of the individual's whereabouts.

c) The CPP must be developed by an interdisciplinary team (IPT) that includes the individual and the professional disciplines or service areas that are relevant to identifying and prioritizing the individual's needs and designing programs to address the identified needs.

d) The facility must have qualified professionals available to develop, implement and monitor the various programs designed to address each individual's identified needs.

1) Qualified professional staff must be licensed, certified or registered as applicable to provide professional services by the State of Illinois.

A) A doctor of medicine or osteopathy is licensed pursuant to the Medical Practice Act of 1987 (419 Rev. Stat. 1989, ch. 117, par. 4480.1 et seq.).

B) A registered nurse is licensed pursuant to the Illinois Nursing Act of 1987 (419 Rev. Stat. 1989, ch. 117, par. 3501 et seq.).

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(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 147.315 Comprehensive Functional Assessments and Reassessments (Repealed)

- a) Comprehensive Assessments
 - the interdisciplinary team (IDT) must identify the individuals who need a comprehensive functional assessment as needed by performing a preliminary evaluation conducted prior to admission to a residential facility. Assessments must be coordinated by a Psychiatric Rehabilitation Services Coordinator (PRSC);
 - if a comprehensive functional assessment must be administered by the IDT, no later than fourteen (14) days after admission to a residential facility or notification from the Department that a current resident has been identified as being in need of psychiatric rehabilitation services; Reports from the pre-admission screening assessment may be used as part of the comprehensive functional assessment if the assessment reflects the current condition of the individual; The assessment must include:
 - A) Psychiatric Evaluation completed by a board-certified psychiatrist or when countersigned by a psychiatrist a physician a Ph.D. clinical psychologist a Master degree Psychiatric RN or a Licensed Clinical Social Worker (LCSW); the evaluation shall include:
 - 1) Psychiatric history with present and previous psychiatric symptoms;
 - 2) Comprehensive mental status examination which includes a description of intellectual functioning memory functioning orientation affectivity suicidality/homicidality ideation response to reality testing and current attitudes and overt behaviors; and
 - 3) Biopsychiatric formulation using the Diagnostic Statistical Manual II (revised);
 - B) Psychosocial history completed by a Social Worker or Occupational Therapist covering the following points:
 - 1) Personal and family history including the history of mental illness in the family;
 - 2) Cognitive functioning attention memory information attitudes perceptual distortances thought content speech and affect and an estimation of the ability and willingness to participate in treatment;
 - 3) History of mental health treatment;
 - 4) Present level of functioning including social adjustment and daily living skills;

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- E) An occupational therapist is registered pursuant to the Illinois Occupational Therapy Practice Act (Ill. Rev. Stat. 1989, ch. 111, par. 3701 et seq.);
- F) A psychologist is registered pursuant to the Clinical Psychologist Licensing Act (Ill. Rev. Stat. 1989, ch. 111, par. 5301 et seq.);
- G) A social worker is licensed pursuant to the Clinical Social Work and Social Work Practices Act (Ill. Rev. Stat. 1989, ch. 111, par. 6301 et seq.);
- H) A rehabilitation counselor shall be certified by the Commission on Rehabilitation Counselors Certification; Integrated psychiatric rehabilitation service program must be coordinated and monitored by a Psychiatric Rehabilitation Services Coordinator (PRSC); identified as an individual who meets one of the following criteria and in addition has a minimum of one year of experience working directly with persons with mental illness:
 - 1) A doctor of medicine or osteopathy;
 - 2) A registered nurse;
 - 3) An occupational therapist;
 - 4) A psychologist;
 - 5) A social worker; or
 - 6) An individual that has at least a bachelor's degree in a human services field including but not limited to sociology special education rehabilitation counseling and psychology;

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 147.310 Inspection of Care (IIOC) Review Criteria for the Evaluation of Psychiatric Rehabilitation Services in Residential Facilities for Individuals with Mental Illness (Repealed)

- a) Medication-certified facilities serving individuals with mental illness are required to address the needs of each individual through a continuous psychiatric rehabilitation service program. The interdisciplinary team (IDT) is a key component in a facility's ability to develop an appropriate program of psychiatric rehabilitation services for each individual in residence. The responsibility for the composition and quality of the IDT rests solely with the licensed provider. Further a facility is fully responsible for ensuring the delivery of all services as set forth in Sections 147.25 through 147.285 which are deemed necessary by the IDT in the psychiatric rehabilitation service program for each individual;
- b) The inspection of care review criteria are used to assess facility performance in meeting the variable needs of individuals with mental illness through individualized programs of psychiatric rehabilitation services. The criteria identified in these sections constitute the essential elements of psychiatric rehabilitation services:

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- v) Legal status (e.g., guardianship)--representative power, trust, beneficiary, pending court order)
- vi) Level of education and/or specialized training
- vii) Previous employment and/or acquired vocational skill, if applicable
- viii) Activities and interests
- ix) History and/or current alcohol/chemical dependency
- x) Resource availability (e.g., income, entitlement, health care, beneficiary, subsidized housing, social services, etc.) and
- xi) Current living arrangements and existing natural support network
- e) Level of Functioning Scale completed by a Social Worker or an Occupational Therapist
- B) Rehabilitation potential completed by a Social Worker or an Occupational Therapist or a Certified Rehabilitation Counselor
- E) Recreation and leisure activities completed by an Occupational Therapist or under the direction of an Occupational Therapist by the Activity Director (77-III Adm-Code 300-1410(c))
- F) Physical examination completed by a physician or by a registered nurse counter-signed by a physician
- G) Health assessment completed by a registered nurse which includes:
- 1) Sensory and physical impairments completed by a physician or by a registered nurse and counter-signed by a physician
 - 2) Special treatments or procedures
 - 3) Medical history where appropriate
 - 4) Medication history where appropriate
 - 5) Oral screening and
 - 6) Nutritional screening
- H) Biologic potential completed by a Psychiatric Rehabilitation Services Coordinator or a Social Worker
- I) Other assessments as indicated by the individual's needs which in the APS's professional judgment should be performed.
- 2) The comprehensive functional assessment must be used to develop a comprehensive program plan which:
- A) Addresses presenting problems and areas of need
 - B) Identifies the individual's specific functional strengths and deficits
 - C) Addresses the reduction of symptoms and the acquisition of skills necessary for the individual to successfully move into the most facilitative environment, and
 - D) Identifies the individual's need for services without regard to the current availability of the services

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- b) Reassessments
- 1) At least every three months, the PRSG shall review each individual and provide an analysis of this review. If needed, the appropriate PRG members will reassess the individual and revise the resident's assessment, assuring the continued accuracy of the assessment.
 - 2) Comprehensive functional assessments must be conducted in no case less often than once every twelve (12) months. Assessments are performed by and obtained from the appropriate Professional in the following areas:
 - A) Psychiatric evaluation
 - B) Psychosocial history
 - C) Level of functioning scale
 - D) Rehabilitation potential
 - E) Recreation and leisure activities
 - F) Physical examination
 - G) Health assessments and
 - H) Other assessments needed and performed as determined by the interdisciplinary team

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 147.320 Interdisciplinary Team (IDT) (Repealed)

The IDT for individuals with mental illness must include representation from the professions, disciplines or service areas that are relevant to the individual's identified needs as described by the comprehensive functional assessment, and to designing programs that meet the individual's needs. The team identifies the treatment needs of the individual and collectively assigns priorities to the individual's needs to develop a single comprehensive program plan (EPP).

- a) The EPP shall be developed with the participation of an IDT comprised of professionals who represent the needs of the individual. The team must at least include a physician, a social worker, a psychiatric Rehabilitation Services Coordinator (PRSG), a psychiatrist or a PH-P clinical psychologist or a Master Degree Psychiatric RN, and a registered nurse. A IDT with responsibility for the individual.
- b) The individual or the individual's legal guardian must participate on the team unless the individual's or the legal guardian's inability or unwillingness to participate is documented.
- c) Upon request of the individual, the individual's parent or advocate may participate as a member of the IDT.
- d) Each individual team member collects data or utilizes previous data from assessments, interprets data and clearly summarizes and reports findings to the IDT. Each professional team member writes recommendations regarding appropriate program and service goals.
- e) The team integrates data from the comprehensive assessments and

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priorities-treatment-goals-and-programs:

- f) A-comprehensive-program-plan-must-be-developed-within-seven-days-after the-completion-of-the-comprehensive-functional-assessment;
- g) The-GPP-shall-be-signed-by-all-professional-EPB-members-participating in-the-development-of-the-individuals-plan-and-when-possible-the individual-for-whom-the-plan-was-developed;
- h) There-must-be-documented-evidence-that-the-GPP-was-explained-to-the individual-or-legal-guardian-of-the-individual-for-whom-the-plan-was developed;

(Source: Repealed at 25 Ill. Reg., effective _____)

Section 147.325 Comprehensive Program Plan (CPP) [Repealed]

Overview----Each-individual-must-have-a-GPP-which-is-composed-of-goals-and objectives-established-by-an-EPB----The-GPP-is-developed-and-modified-as necessary-according-to-the-individuals-needs-as-identified-in-the comprehensive-functional-assessments----the-assessment-must-be-reviewed-for relevancy-and-updated-as-appropriate-at-least-quarterly-by-the-EPB----The-GPP must-be-reviewed-and-revised-by-the-EPB-after-each-assessment-to-assure-that the-GPP-remains-relevant-and-appropriate-to-meet-the-needs-of-the-individual.

- a) The-GPP-must-address-major-needs-of-the-individual-through-a-program or-individualized-services;
- b) The-GPP-must-describe-relevant-interventions-to-reduce-or-stabilize symptoms-of-the-individual's-illness-and-support-the-individual-toward independence;
- c) The-plan-must-be-a-single-comprehensive-program-designed-to-meet-the needs-of-the-individual-across-all-of-the-environments-in-which-he/she lives-through-consistent-program-implementation-and-interventions;
- d) A-discharge-plan-must-be-developed-by-the-interdisciplinary-team-as-a component-of-the-individuals-comprehensive-program-plan---this-plan addresses-the-reduction-of-symptoms-and-the-acquisition-of-skills necessary-for-the-individual-to-successfully-move-into-the-most facilitative-environment;
- e) The-GPP-shall-be-based-upon-each-resident's-assessed-functioning-level and-shall-include-the-following-activities-as-appropriate-for-the resident:
- i) Self-maintenance-training-addressing-topics-such-as:
 - B) Physical-functioning?
 - B) Personal-care-and-hygiene?
 - C) Grooming?
 - B) Breasting?
 - B) Soileting?
 - B) Nutrition?
 - G) Speech-and-Language?
 - B) Eating-habbits?
 - i) Maintenance-of-personal-space-and-poseessions?
 - i) Self-maintenance-training-addressing-topics-such-as:
 - B) Physical-functioning?
 - B) Personal-care-and-hygiene?
 - C) Grooming?
 - B) Breasting?
 - B) Soileting?
 - B) Nutrition?
 - G) Speech-and-Language?
 - B) Eating-habbits?
 - i) Maintenance-of-personal-space-and-poseessions?

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- d) Health-maintenance?
- Use-of-medication-and
- B) Self-medication-program;
- 2) Social-functioning-addressing-topics-such-as:
 - A) Interaction-and-involvement-with-family/significant-others?
 - B) Social-skills?
 - B) Relationships-with-male-and/or-female-friendr?
 - B) Peer-group-involvement?
 - B) Leisure/recreational-activities-and
 - B) Education-regarding-alcohol-and-substance-abuse?
 - Community-living-skills-addressing-topics-such-as:
 - A) Homemaking-responsibilities?
 - i) Cleaning?
 - i) Laundry?
 - i) Meal-preparation-and-service?
 - iv) Shopping?
 - v) Financial-management?
 - v) Using-telephone?
 - B) Use-of-transportation?
 - C) Traveling-from-residence-independently?
 - B) Recognizing-and-avoiding-common-dangers-and
 - B) Use-of-community-services?
 - Work-related-skills-addressing-topics-such-as:
 - A) Job-retention-behaviors?
 - i) Promptness?
 - i) Regular-attendance?
 - iii) Relationships-with co-workers/supervisors
 - iv) Work-quality?
 - v) Work-quantity?
 - v) Ability-to-accept-understand-and-carry out-instructions?
 - B) Job-seeking-skills?
 - i) Ability-to-initiate-and-schedule-own activities?
 - i) Ability-to-look-employment?
 - iii) Completing-an-application?
 - iv) Personal-appearance?
 - v) Communication-and-interviewing-skills?
 - v) Ability-to-set-realistic-vocational goals?
 - C) Basic-Academic-skills-and
 - B) Alternative-vocational-placements?
 - i) Supported-employment?
 - iii) Transitional-employment?
 - iii) Workshop-employment?
- f) The-GPP-must-contain-objectives-to-reach-each-of-the-individuals goals-in-the-plan--Each-objective:

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- 1) Must-be-developed-by-the-IDB;
- 2) Must-be-based-on-the-results-obtained-from-the-assessment process;
- 3) Must-be-stated-in-measurable-terms-and-identify-specific performance-measures-to-assess;
- 4) Must-be-developed-with-a-projected-completion-or-review-date (month-day-year);-and
- 5) Must-be-assigned-a-priority-based-on-the-individual's-functioning level-and-on-principles-of-sequential-skill-development.
- 6) The-plan-for-each-individual-must-state-specific-goals-that-are developed-by-the-IDB-the-individual's-needs-must-be-prioritized-and addressed-by-the-IDB-goals-must-be-developed-with-specific-goals-to address-the-higher-prioritized-needs-if-there-is-a-lower-priority need-which-is-not-being-addressed-through-a-specific-goal-or-program; a-statement-must-be-made-as-to-why-it-is-not-being-addressed-or-how the-need-will-be-otherwise-addressed;
- 7) The-goals-must-be-designed-to-assist-the-individual-to-function-at-the greatest-physically-cognitive-social-and-vocational-level-which-he/she can-potentially-achieve;
- 8) Goals-must-not-be-so-difficult-that-they-cannot-be-accomplished-in-a year's-time-or-so-simple-that-they-are-already-in-the-individual's repertoire.
- 9) For-each-behavioral-and-service-goal-identified-in-the-GPP-the-IDB must-indicate-the-appropriate-person-or-persons-responsible-for implementing-the-program-or-providing-the-service;
- 10) The-individuals-must-be-offered-choices-of-relevant-rehabilitation activities-which-are-available-to-meet-their-needs-Community-based (off-site)-rehabilitation-programs-should-be-encouraged;
- 11) Programs-designed-to-implement-the-objectives-in-the-resident's-GPP must-specify:
 - 1) Program-goals (long-and-short-term)-with-rationale-for-the-goals;
 - 2) Specific-objectives-to-meet-the-individual-goals-stated sequentially;
 - 3) Planned-service-or-intervention-related-to-accomplishing-the objectives-including-the-frequency-quantity-and-duration-of services;
 - 4) The-evaluation-method-to-be-used-to-monitor-provision-of-the planned-service-or-intervention;
 - 5) The-evaluation-criteria-used-to-monitor-the-expected-results-of accomplishing-the-objective;
 - 6) Progress-evaluation-periods-and
 - 7) Identification-of-the-professional-staff-responsible-for implementing-specific-parts-of-the-program-and-for-overall program-implementation;
- m) GPP-implementation:
 - 1) A-single-GPP-must-be-developed-and-implemented-for-each individual;
 - 2) Services-relevant-to-the-GPP-must-be-provided-to-implement-the

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- 6) GPP---Programs-must-be-integrated-into-the-individual's-daily life-so-that-he/she-receives-a-continuous-psychiatric rehabilitation-service-re-program-across-all-environments;
- 3) If-multiple-providers-are-providing-mental-health-services-to-the client-one-master-GPP-should-reflect-the-coordination-of-goals-and-services-with-written-consent-from-the-individual-a-copy of-the-GPP-should-be-sent-to-the-appropriate-provider;
- 4) Program-interventions-to-the-extent-practical-should-be-delivered in-a-natural-context-during-normal-daily-occurrences-Specific objectives-and-services/interventions-should-be-integrated-into activities-which-occur-naturally-in-the-individual's-environment.
- n) GPP-documentation:
 - 1) The-individual's-response-to-the-GPP-and-progress-toward-goals must-be-documented-in-progress-notes;
 - 2) Significant-events-that-are-related-to-the-individual's-GPP-and assessments-that-contribute-to-an-overall-understanding-of his/her-on-going-level-and-quality-of-functioning-must-be documented;
- o) GPP-Monitoring-and-Change:
 - 1) Implementation-of-the-individual's-GPP-must-be-supervised-by-the Psychiatric-Rehabilitation-Services-Coordinator-(PRSC)-on-an-ongoing basis-At-least-monthly-the-PRSC-must-review-and-document-the individual's-progress;
 - 2) The-PRSC-must-review-progress-to-determine-if-the-individual:
 - A) Has-successfully-completed-an-objective(s)-as-identified-in the-GPP?
 - B) Is-regressing-or-losing-skills-previously-gained?
 - C) Is-failing-to-progress-toward-identified-objectives-after reasonable-efforts-have-been-made-relative-to-his/her-level of-functioning-and-potential-and
 - D) Has-made-sufficient-progress-toward-accomplishing-an objective-and-is-ready-to-move-toward-a-new-objective--an accomplishing-program-objective;
 - 3) Based-upon-this-review-the-PRSC-must-suggest-revisions-in-the GPP-when-necessary-to-the-IDB-if-revisions-are-required-the IDB-will-make-the-revisions-in-consultation-with-the-psychiatrist or-psychiatry-the-PRSC-the-nurse-who-is-responsible-for-the individual-and-with-the-individual;
 - 4) The-PRSC-coordinates-staff-in-the-delivery-of-programs-overseas data-collection-and-reviews-performance.
- p) GPP-Outcome:
 - 1) The-outcome-of-the-current-GPP-provides-a-measure-of-how-well-the program-of-psychiatric-rehabilitation-services-has-moved-the individual-closer-to-his/her-optimum-individual-social community-and-vocational-functioning.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

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Section 147.330 Specialized Care - Administration of Psychopharmacologic Drugs
(Repealed)

Psychopharmacologic drugs may only be ordered by a psychiatrist or physician and when ordered must be an integrated part of the resident's individual treatment plan that is designed to lead to the most facilitative way of treating the symptoms for which the drugs are employed.

a) No prescription medication shall be administered except upon the written or verbal order of a psychiatrist or physician.

1) Verbal orders may be given only to a licensed nurse, pharmacist or another physician; the individual receiving a verbal order must record and sign it immediately.

2) Verbal orders for Schedule II drugs are permitted only in the case of a bona fide emergency situation; two PRNs within a six (6) month period will require a medical review.

3) Verbal orders must be confirmed in writing by the ordering physician within seventy-two (72) hours.

4) All prescriptions may not be written for more than a ninety (90) day period.

b) At least every month the psychiatrist or physician shall review the psychopharmacologic drug regimen of each individual under his/her care.

c) The nursing facility shall establish automatic stop order procedures or other methods for controlling medication dosage when the prescribing physician fails to review the drug regimen; fails to confirm verbal orders or does not include in the order a specific limit on the time or number of doses; the facility must notify the prescribing physician of this action prior to the expiration date of the medication.

d) Before a psychopharmacologic medication is prescribed, the attending psychiatrist or physician shall record in the resident's medical record the following information:

1) the diagnosis and the specific behaviors or other signs and symptoms which indicate a need for the medication; and assurance that appropriate laboratory tests are performed on a regular basis and analyzed;

2) the method for assessing the resident's progress or response to the treatment including adverse effects; and

3) confirmation that the psychiatrist, physician or nurse has explained in lay terms to the individual and/or the individual's legal guardian the reasons for the treatment possible benefits and consequences of the medication and has obtained informed consent for its use.

e) Administration of psychopharmacologic medication

1) During the course of the administration of psychopharmacologic medication the nursing facility shall ensure that the resident's

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progress or response to the treatment including adverse effects are monitored and recorded;

2) Pursuant to this requirement the nursing facility shall ensure that appropriate persons responsible for the resident's physical, mental, psychosocial care and other treatment are trained as to the potential effects of the medication and record their observations of these effects including effects of the resident's progress in habilitation and education programs and participation in other activities.

f) Repeated administration of a psychopharmacologic medication including substitution of medication of the same class shall never cumulatively exceed one year without the attending psychiatrist or physician effecting a carefully monitored gradual withdrawal of the medication where appropriate; this periodic drug withdrawal shall be used to determine the need for continuing the medication and the prescribed dosage; during such withdrawal the results shall be noted in the resident's medical record; withdrawal should proceed as long as the resident's condition has not worsened.

g) The attending psychiatrist or physician shall undertake or order an immediate review of a resident's psychopharmacologic medication regimen when any pharmacist, physician or nurse states in writing with reasons therefore to the attending psychiatrist or physician with experience in psychiatric care that such regimen constitutes a hazard of serious adverse effects not warranted by therapeutic benefit to the residents; special attention shall be paid to the following medication regimens:

1) Concurrent use of more than one anti-psychotic medication or concurrent use of an anti-psychotic medication with an anti-anxiety or anti-depressant medication;

2) Use of any anti-convulsive or anti-Parkinson medication in the absence of current indications that the resident suffers from convulsions or Parkinson like effects;

3) Use of any anti-psychotic medication in the presence of evidence of side effects such as tardive dyskinesia;

h) Any individual taking a neuroleptic must be screened for tardive dyskinesia every six months; the screening may be conducted by a nurse or physician using any recognized screening instrument; the results of the screening must be documented in the individual's file and reviewed by the prescribing physician;

i) Mandatory review of a resident's psychopharmacologic medication regime is necessary whenever the individual or his/her legal guardian informs the attending physician of experiencing effects of taking a medication which (s)he finds to be painful, extremely distracting, or which decreases his/her ability to function normally in everyday life; if after review the prescribing physician or psychiatrist believes a drug to be causing these effects, informed consent for its continued use must be obtained;

j) All facility staff should be trained to recognize the symptoms of

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tardive--dyskinesia--and--any--suspected--symptoms--must--be--reported immediately--to--the--prescribing--physician;

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 147.335 Specialized Care - Behavioral Emergencies (Repealed)

- a) Where shall be written policies which are followed in the operation of the facility regarding behavior emergencies and the use of restraints;
 - 1) The facility shall develop progressively restrictive levels of behavior intervention that create an incremental approach toward responding to various behavioral emergencies involving residents;
 - 2) The facility shall respond to a given behavior emergency by using the least restrictive method possible that will protect the health and safety of the resident and other residents;
 - 3) When a facility's response to a behavioral emergency does not utilize a lower level of intervention prior to instituting a higher level, the facility shall document in the resident's record why the more restrictive measures are used;
 - b) The facility shall not confine a resident to a room unattended nor in a manner that prohibits the resident from egressing from that room;
 - c) When a disturbed or unmanageable resident is separated from the facility stimuli related to the situation that is occurring, the facility shall record in the resident's record the events and the reasons for removing the resident from the situation.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 147.340 Discharge Planning (Repealed)

- a) Upon admission, a discharge plan must be developed by the interdisciplinary team as a component of the individual's comprehensive program plan; this plan addresses the reduction of symptoms and the acquisition of behaviors and skills necessary for the individual to move to the most facilitative environment;
- b) Effective October 1, 1997, thirty (30) days before the individual is planned for discharge, the PRSG must notify the individual or the individual's legal representative, and when appropriate, the individual's family both orally and in writing of the upcoming planned discharge. A specific individualized post-discharge plan must be developed by the IPSP and, when appropriate, with input from community support agencies, family and friends, etc. thirty (30) days before the planned discharge. The plan will identify:
 - 1) The alternate living site;
 - 2) Financial resources available;
 - 3) Community service needs and availability;

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- 4) Community mental health services with scheduled psychiatric appointments;
- 5) Access to medical care and medications; and
- 6) Case management system responsible for transition and follow-up.
- c) At the time of discharge, the IPSP must:
 - 1) Have prepared a discharge summary of the individual's present psychiatric status, self-maintenance skills, behavior and impulse control, social functioning, community living skills, work and work-related skills, and general health status as well as indicating specific issues that may negatively impact community adjustment with recommendations for future programming and follow-up services; and
 - 2) Provide the post-discharge plan of care and discharge summary to the individual's new living environment to assist in his/her successful adjustment to that environment.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

Section 147.345 Reimbursement for Additional Program Costs Associated with Providing Psychiatric Rehabilitation Services for Individuals with Mental Illness in Nursing Facilities (Repealed)

- a) Nursing facilities (IPSP and SNP) providing psychiatric rehabilitation services to individuals excluding state operated facilities for the mentally ill, will be reimbursed for providing a psychiatric rehabilitation services program for each client with mental illness as specified in Sections 147.300 through 147.340;
- b) Beginning February 1, 1990, facility reimbursement for cost associated with providing psychiatric rehabilitation services to individuals with mental illness will be made upon conclusion of resident reviews that are conducted by the state's mental health authority or their contracted agent. Facility reimbursement for providing psychiatric rehabilitation services as a result of resident reviews conducted prior to February 1, 1997, will begin with the facility's February 1997 billing cycle.
- c) The additional reimbursement for costs associated with psychiatric rehabilitation services program costs is based upon the presence of three (3) determinants. The three (3) determinants are:
 - 1) Minimum Staffing
 - a) Direct Services--Facilities must be in compliance with the Health Care Financing Administration's (HCFA)--(42--CFR 442.201 or 42--CFR 442.302 (1989)) and the Illinois Department of Public Health's (IDPH)--(77--Ill--Adm--Code--300.1230) minimum staffing standards relative to facility type;
 - b) The number of additional direct services staff necessary for delivering adequate psychiatric rehabilitation services programs for individuals with mental illness is based upon

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2) A full-time equivalent (FTE) staff-to-client ratio of 1:7.5
 Psychiatric-Rehabilitation-Services-Coordinator

A) Each individual's psychiatric-rehabilitation-services program must be integrated, coordinated and monitored by a Psychiatric-Rehabilitation-Services-Coordinator (PRSC). Any facility required to provide psychiatric-rehabilitation services programs to individuals with mental illness must provide PRSC. Delivery of these services is based upon a full-time equivalent (FTE) ratio of one (1) PRSC to thirty (30) individuals being served.

B) A Psychiatric-Rehabilitation-Services-Coordinator (PRSC) is a person who has at least one year of experience working directly with persons with mental illness and is one of the following:

i) A doctor of medicine or osteopathy;

ii) A registered nurse;

iii) An occupational therapist;

iv) A psychologist;

v) A social worker; or

vi) An individual that has at least a bachelor's degree in a human services field including but not limited to sociology, special education, rehabilitation counseling, and psychology.

3) Assessment and Other Program Services

A) A comprehensive functional assessment that identifies an individual's needs must be performed as needed to supplement any preliminary evaluations conducted prior to admission to a nursing facility.

B) A Comprehensive Functional Assessment must include:

i) Psychiatric Evaluation completed by a board-certified psychiatrist or when contested by a psychiatrist
 a. physician, a PhD in clinical psychology, a Master's degree in psychology, or a licensed clinical social worker (LCSW);

ii) Psycho-social history completed by a social worker or an occupational therapist;

iii) Level of functioning scale completed by a social worker or an occupational therapist;

iv) Rehabilitation potential completed by a social worker or an occupational therapist;

v) Recreation and leisure activities completed by an occupational therapist or by the activity director;

vi) Physical examination completed by a physician or by a registered nurse contested by a physician;

vii) Health assessment completed by a registered nurse;

viii) Discharge potential completed and signed by a psychiatric-rehabilitation-services coordinator or a social worker.

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ix) Other assessments performed by qualified professionals as indicated by the individual's needs which the PRSC professional judgment dictates should be performed;

d) Costs associated with psychiatric-rehabilitation-services program reimbursement includes other program costs such as consultant services, training, program related supplies and other items necessary for the delivery of psychiatric-rehabilitation services to clients in accordance with their individual program plans;

e) Total program reimbursement for the additional cost associated with the delivery of psychiatric-rehabilitation services to individuals with mental illness residing in nursing facilities will be ten dollars (\$10) per day per individual being served. Facility eligibility for psychiatric-rehabilitation-services program reimbursement is dependent upon the facility meeting all criteria specified in subsections 147.948 through 147.949.

(Source: Repealed at 25 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Mental Health Services in Nursing Facilities2) Code Citation: 89 Ill. Adm. Code 1453) Section Numbers:

145.10

145.20

145.30

145.40

145.50

145.60

145.70

145.80

145.90

Proposed Action:

New

New

New

New

New

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New

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New

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (305 ILCS 5/12-13)5) Complete Description of the Subjects and Issues Involved: This proposed rulemaking establishes a demonstration project regarding nursing facilities that primarily serve persons with severe mental illness, and adds new provisions concerning facility classifications and reimbursement methodologies for institutions for Mental Diseases (IMDs).

The purpose of the demonstration project established under 89 Ill. Adm. Code 145-Subpart A, is to allow nursing facilities to specialize in the treatment of persons with severe mental illness and focus their resources on providing psychiatric rehabilitation services rather than on meeting requirements designed primarily for elderly and medically impaired residents. The demonstration project will focus upon developing standards and payment methods specific to the needs of facilities specializing in serving persons with mental illness.

Facilities will be included in the demonstration project on a voluntary basis and with the understanding that federal certification status will be lost. Demonstration project facilities will be those that almost exclusively serve residents with serious mental illness who are under the age of 60 years. Because of this population, these facilities are classified as IMDs. According to federal regulations under Title XIX, nursing facilities that primarily serve persons with mental illness, who are older than 21 years and under 65 years of age, must be classified as IMDs.

The State does not receive federal matching funds (federal financial participation (FFP)) for Medicaid services provided to residents of IMD facilities who are 22 to 64 years of age and have serious mental illness. By becoming non-certified licensed facilities, the State will incur an additional loss of federal matching funds for demonstration project

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nursing facility services for residents who are 65 years of age or older and under 22 years of age. The additional loss of FFP for the nursing facility services ranges from an estimated low of \$1.2 million to an estimated high of \$2.8 million per year, depending upon the number of facilities participating in the program. The FFP loss on the nursing facility services for the residents who are 64 or older and under 22 will be offset by the resident's being allowed to keep their full individual SSI benefit.

89 Ill. Adm. Code 145-Subpart B is being added to the Department's administrative rules to better manage admissions of persons with mental illness to nursing facilities. The proposed provisions establish two classifications of IMDs: a Class I IMD, which is a nursing facility determined to be an IMD during an initial data review, and a Class II IMD, which is a nursing facility determined to be an IMD in a subsequent data review. A Class I IMD will have a Medicaid rate for all residents set at the rate that would otherwise be determined for nursing facilities that are not IMDs. A Class II IMD will have a Medicaid rate for residents who are 22 through 64 years of age set at one-half of the rate that would otherwise be determined for nursing facilities that are not IMDs. The Medicaid rate for residents outside of that age range will be set at the rate that would otherwise be determined for nursing facilities that are not IMDs.

It is expected that proposed Subpart B will not result in any budgetary changes. However, these new provisions will protect existing FFP by discouraging any additional facilities from becoming IMDs. In the future, loss of FFP will be passed on to the facility in the event a facility does become an IMD. The anticipated saving in FFP for the Department under Subpart B, for nursing facility services for residents 22 to 64 years of age in facilities that become IMDs, is estimated at an average of \$300,000 per facility. An additional saving of FFP for other medical services (i.e., personal physician, pharmacy) provided to these residents in future IMDs is also expected as a result of these provisions. However, the prevention of this additional FFP loss is not expected to be significant because when facilities become IMDs, this FFP loss is offset by a gain in resumption of the full individual SSI benefit for residents who are 22-64 years of age.

- 6) Will these proposed rules replace emergency rules currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed rules contain incorporations by reference? No
- 9) Are there any other proposed rules pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do

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not affect units of local government.

- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these proposed amendments at the Illinois Department of Human Services' local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 100 West Randolph, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 a.m. until 5:00 p.m. These copies of the amendments are being made available for review in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Nursing facilities that provide services for persons with severe mental illness and Institutions for Mental Diseases.

B) Reporting, bookkeeping or other procedures required for compliance:

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None

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on Which this Rulemaking Was Summarized: January 2001

The full text of the Proposed Rules begins on the next page:

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TITLE 69: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID

SUBCHAPTER d: MEDICAL PROGRAMS

PART 145

MENTAL HEALTH SERVICES IN NURSING FACILITIES

SUBPART A: DEMONSTRATION PROJECT FOR MENTAL HEALTH SERVICES IN NURSING FACILITIES

Section
145.10 General Provisions

SUBPART B: INSTITUTION FOR MENTAL DISEASES PROVISIONS FOR NURSING FACILITIES

Section
145.20 General Provisions
145.30 Definitions
145.40 Initial IMD Review, Determination and Classification of Facilities
145.50 Subsequent IMD Reviews, Determinations and Classifications
145.60 Effect of Becoming a Class II IMD and Redetermination Reviews
145.70 Watch List of Nursing Facilities at Risk of Becoming IMDs
145.80 Reimbursement Rate for IMD Nursing Facility Classifications
145.90 Reviews

AUTHORITY: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

SOURCE: Adopted at 25 Ill. Reg. _____, effective _____.

SUBPART A: DEMONSTRATION PROJECT FOR MENTAL HEALTH SERVICES IN NURSING FACILITIES

Section 145.10 General Provisions

- a) This Section is promulgated to establish a demonstration project for nursing facilities which primarily serve persons with severe mental illness. Section 1905(a)(16) and Section 1905(a)(27)(b) of the Social Security Act provide that federal financial participation (FFP) is not available for medical assistance under Title XIX for services provided to any individual who is under 65 years of age and who is a resident in an institution for mental diseases (IMD) unless the payment is for inpatient psychiatric services for individuals under 21 years of age. In some Illinois nursing facilities, a very high proportion of residents are not elderly and have a severe mental illness. The purpose of the demonstration project is to allow nursing facilities to specialize in the treatment of persons with severe mental illness and

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focus their resources on providing psychiatric rehabilitation services rather than on meeting requirements designed primarily for elderly and medically impaired residents. The demonstration project will focus upon developing standards and payment methods specific to the needs of facilities specializing in serving persons with mental illness. The facilities in the demonstration project will serve as sites for examining service models appropriate for the mentally ill population in a long term care setting. They will also serve as sites for comparing costs for the numbers and credentials of staff appropriate for the physically, medically ill population. The cost information developed from the demonstration project will be used by the Department to develop a payment rule for services provided by a nursing facility to residents who have a serious mental illness as required by 305 ILCS 5/5-5.5(d).

b) For the purposes of this Section, "severe mental illness" is defined as the presence of a major disorder as classified in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV), excluding alcohol and substance abuse, Alzheimer's disease, and other forms of dementia based upon organic or physical disorders. A severe mental illness is determined by all of the following three areas:

1) Diagnoses which constitute a severe mental illness are:

- A) Schizophrenia,
 - B) Delusional disorder,
 - C) Schizo-affective disorder,
 - D) Psychotic disorder not otherwise specified,
 - E) Bipolar disorder I - mixed, manic, and depressed,
 - F) Bipolar disorder II,
 - G) Cyclothymic disorder,
 - H) Bipolar disorder not otherwise specified,
 - I) Major Depression, recurrent,
 - J) Psychotic disorder, not otherwise specified.
- 2) In addition, the individual must be 18 years of age or older and be substantially functionally limited by mental illness in at least two of the following areas:
- A) Self-maintenance,
 - B) Social functioning,
 - C) Community living activities,
 - D) Work related skills.
- 3) Finally, the disability must be of an extended duration, expected to be present for at least a year, that results in a substantial limitation in major life activities. These individuals will typically also have one of the following characteristics:
- A) Have experienced two or more psychiatric hospitalizations;
 - B) Receive Social Security Income (SSI) or Social Security Disability Income (SSDI) due to mental illness or have been deemed eligible for it.
- c) In order to be eligible to participate in the demonstration project a nursing facility must meet each of the following criteria:

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- 1) Ninety percent or more of the residents have a diagnosis of severe mental illness;
- 2) No more than 15 percent of the residents are 65 years of age or older;
- 3) None of the residents has a primary diagnosis of moderate, severe, or profound mental retardation;
- 4) None of the residents requires medical or nursing care at a level higher than the intermediate nursing care light level of care as defined in 77 Ill. Adm. Code 300.1230(n); and
- 5) The facility must be in good standing with the Departments of Public Aid and Public Health.

d) Nursing facilities which meet the criteria set forth in subsection (c) of this Section may apply to the Department to be considered for participation in the demonstration project. In selecting facilities for the demonstration project, the Department shall consider other factors beyond the criteria in subsection (c) of this Section such as, but not limited to, the facility's history of compliance with standards, and the effect of lost federal funds associated with withdrawal from certification. The Department will enter into provider agreements with those facilities selected for the demonstration project. No more than 12 facilities shall be admitted to the demonstration project.

e) Nursing facilities participating in the demonstration project must comply with the standards set forth in 77 Ill. Adm. Code 300.6000 through 300.6095. Based on a finding of noncompliance by the Department of Public Health on the part of a nursing facility participating in the demonstration project with any requirement set forth in 77 Ill. Adm. Code 300.6000 through 300.6095, the Department may impose sanctions as set forth in 89 Ill. Adm. Code 147.301 after notice to the facility.

f) Notwithstanding any other provisions contained in the Administrative Code requiring certification of nursing facilities, nursing facilities participating in the demonstration project are not required to be certified for Title XIX participation in order to enroll for participation in the Medical Assistance Program or to receive payment for services.

g) The Department shall not pay for any new admissions to the nursing facilities participating in the demonstration project of residents who:

- 1) Are age 60 years or older;
- 2) Do not have a severe mental illness as determined by the State's mental health pre-admission screening program; or
- 3) Require medical or nursing care at a level higher than the intermediate nursing care light level of care as defined in 77 Ill. Adm. Code 300.1230(n).

h) The Departments of Public Aid and Public Health, and the Department of Human Services, Office of Mental Health, shall have the right of entry and inspection of any nursing facilities participating in the

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- demonstration project to determine success and utility of the demonstration project.
- 1) The Department shall provide technical assistance to nursing facilities participating in the demonstration project to assist them in meeting the standards set forth in 77 Ill. Adm. Code 300.6000 through 300.6095.

SUBPART B: INSTITUTION FOR MENTAL DISEASES PROVISIONS FOR NURSING FACILITIES

Section 145.20 General Provisions

Sections 1905(a)(16) and 1905(a)(27)(B) of the Social Security Act provide that federal financial participation (FFP) is not available for any medical assistance under Title XIX for services provided to any individual who is older than 21 years of age and under 65 years of age and who is a patient in an IMD. The purpose of this Subpart B is to set forth the process by which the Department shall identify nursing facilities that are IMDs or that are at risk of becoming IMDs, the preventive measures to be taken to avoid classification of a nursing facility as an IMD, and the actions to be taken if a facility is identified as an IMD.

Section 145.30 Definitions

For purposes of this Part, the following terms shall be defined as follows:

"IMD" means a nursing facility that is considered to be an Institution for Mental Diseases (IMD) under Section 1905(i) of the Social Security Act (42 USC 1396d(i)). Federal regulations provide that: An IMD is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. An IMD has an overall character of a facility established and maintained primarily for the care and treatment of individuals with mental diseases. An institution for the mentally retarded (ICF/MR) is not an IMD (42 CFR 435.1009).

"Class I IMD" means a nursing facility determined to be an IMD during the initial review conducted pursuant to Section 145.40.

"Class II IMD" means a nursing facility determined to be an IMD in a subsequent review conducted pursuant to Section 145.50.

"IMD Guidelines" means the Guidelines in Section 4390 of the Health Care Financing Administration State Medicaid Manual relating to Institutions for Mental Diseases. Criteria used in determining whether the overall character of a facility is that of an IMD include whether the current need for institutionalization for more than 50 percent of all the patients in the facility results from mental diseases and

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whether the facility specializes in providing psychiatric/psychological care and treatment.

"Mental Disease" means mental disease or mental illness as defined in the IMD Guidelines. Mental disease includes those diseases listed as mental disorders in the International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM), with the exception of mental retardation, senility and organic brain syndrome.

"Current need for nursing facility care results from mental disease" means that a review of the resident's diagnoses, the character and nature of his or her problems, functional status, and his or her care needs indicates that the resident's need for nursing facility care results from his or her mental disease and not a physical or medical reason.

Section 145.40 Initial IMD Review, Determination and Classification of Facilities

- a) An initial review of data on nursing facility residents in enrolled nursing facilities shall be conducted by the Department. The initial data review shall be based on Minimum Data Set data electronically submitted to the Department on nursing facility residents who are residents of the facility as of March 1, 2001. Based on the review, a determination shall be made of the number of residents whose current need for nursing facility care results from mental disease. The facility's total resident census shall be determined by the Department at the time of the data review.
- b) The percentage of residents whose current need for nursing facility care results from mental disease will be determined by dividing the number of the residents whose current need for nursing facility care results from mental disease, identified in the data review in subsection (a) of this Section, by the total resident census.
- c) If the initial data review of a facility indicates that further information is needed in order to determine whether the current need for nursing facility care for more than 50 percent of all residents in the facility results from mental diseases, the Department may contact the facility or make an on-site visit to obtain additional information. The Department will verify the resident count and make a determination of the facility's IMD status based on the IMD Guidelines.
- d) If a facility is determined to be an IMD during the initial review and determination, the Department shall notify the facility that it has been identified as a Class I IMD nursing facility.
- e) A facility that is classified as a Class I IMD nursing facility in accordance with the review and determination process in this Section shall receive the Class I IMD per diem reimbursement rate as stipulated in Section 145.80(a).

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- f) A change in ownership or operator shall not change or otherwise affect the designation of a facility as an IMD under this Section.
- g) A Class I IMD facility that no longer meets the definition of an IMD, shall relinquish its Class I IMD classification and may not again be classified as a Class I IMD.

Section 145.50 Subsequent IMD Reviews, Determinations and Classifications

- a) Subsequent reviews of data on nursing facility residents in enrolled nursing facilities shall be conducted periodically using the Minimum Data Set data electronically submitted to the Department.
- b) The percentage of residents whose current need for nursing facility care results from mental disease will be determined by dividing the number of the residents whose current need for nursing facility care results from mental disease, identified in the data review in subsection (a) of this Section, by the total resident census. The facility's total resident census shall be determined by the Department at the time of the data review.
- c) If a subsequent data review indicates that further information is needed in order to determine whether the current need for nursing facility care for more than 50 percent of all residents in the facility results from mental diseases, the Department may contact the facility or make an on-site visit to obtain additional information. The Department will verify the resident count and make a determination of the facility's status based on the IMD Guidelines.
- d) Within 45 days after the on-site visit, the Department shall determine whether the facility is an IMD and notify the facility of its IMD status.
- e) A facility determined to be an IMD as the result of a subsequent data review and determination shall be classified as a Class II IMD nursing facility effective the first day of the quarter after the determination. A change in ownership or operator shall not change or otherwise affect the designation of a facility as an IMD under this Section. No facility may be classified as a Class I IMD nursing facility as a result of a subsequent review under this Section.

Section 145.60 Effect of Becoming a Class II IMD and Redetermination Reviews

- a) A facility that is classified as a Class II IMD nursing facility in accordance with the review and determination process in Section 145.50 shall receive the Class II IMD per diem reimbursement rate as stipulated in Section 145.80(b).
- b) The Class II IMD rate shall be effective on the first day of the quarter after the Department makes its determination that a facility is a Class II IMD.
- c) If, requested by a Class II IMD nursing facility, the Department shall make a redetermination of a facility's status as an IMD by conducting a resident data review and on-site visit of the facility.

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- d) If the Department determines that the facility is not an IMD as the result of a redetermination review, the facility shall be reclassified to non-IMD status effective the first day of the month following the redetermination review.

Section 145.70 Watch List of Nursing Facilities at Risk of Becoming IMDs

- a) If the initial, subsequent or any other Department data reviews indicate that the current need for nursing facility care for 40 percent or more of the residents residing in the facility results from mental disease, the Department shall notify the facility that it is at risk of becoming an IMD, advise the facility of the consequences of becoming an IMD, and place the facility on an "at risk" list. The Department may conduct an on-site review of an "at risk" facility at any time.
- b) The Department shall notify the State mental health authority when a facility is at risk of becoming an IMD.

Section 145.80 Reimbursement Rate for IMD Nursing Facility Classifications

- a) Reimbursement Rate for Class I IMD Nursing Facilities
A facility classified under Section 145.40 shall have its per diem reimbursement rate for all residents set at the reimbursement rate that would otherwise be determined under the Department's administrative rules for long term care services provided by nursing facilities that are not IMDs.
- b) Reimbursement Rate for Class II IMD Nursing Facilities
1) A facility classified as a Class II IMD pursuant to Section 145.50 shall have its per diem reimbursement rate for residents who are 22 through 64 years of age set at one-half of the reimbursement rate that would otherwise be determined under Department rules for long term care services provided by nursing facilities that are not IMDs.
- 2) The per diem reimbursement rate for residents 21 years of age or younger and residents 65 years of age or older shall be set at the reimbursement rate that would otherwise be determined under Department rules for long term care services provided by nursing facilities that are not IMDs.

Section 145.90 Reviews

- a) Upon notification that it has been determined to be a Class II IMD, either as the result of a subsequent review pursuant to Section 145.50 or a redetermination review pursuant to Section 145.60(c), a facility may request a review of the Department's determination. Such a request must be submitted in writing and received by the Department within 30 days after the date of the Department's notice to the facility that it has been determined to be an IMD. Such a request

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shall include a clear explanation and supporting documentation of the facility's basis for considering the Department's determination that it is an IMD to be in error. Department review shall be limited to the Department's:

- 1) calculation of the percentage of persons whose mental disease is the reason for being in the facility; and
 - 2) determination of those residents who are counted in arriving at being in the facility and the number of residents who have a physical or medical reason for being in the facility.
- b) The Department shall complete its review and issue a final determination of a facility's request for review unless the Department in the course of its review determines that an on-site visit is needed. Upon the request of the Department, a facility may submit further documentation to the Department in support of its request for review during the course of the Department's review. Department review shall not delay implementation of a facility's reimbursement rate pursuant to Section 145.80(b).

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1) Heading of the Part: Long-Term Care Assistants and Aides Training Programs Code

2) Code Citation: 77 Ill. Adm. Code 395

3) Section Numbers: Proposed Action:
395.110 Amendment
395.150 Amendment
395.160 Amendment
395.330 New Section
395.330 New Section

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved:

Section 395.110 is being amended to include references to the Residential Services Aide Training Program that will be developed as part of the implementation of Public Act 91-799.

Section 395.150 is being amended to include time frame requirements for Residential Services Aide Training Programs.

Section 395.160 is being amended to include requirements for instructors in a Residential Services Aide Training Program.

Curriculum requirements for Residential Services Aide Training Programs are added in a new Section 395.330.

A new Section 395.333 establishes requirements for waived Residential Services Aide Training Programs.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

6) Will this rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain any incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create

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or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this Rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Paul Thompson
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@dph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Paul Thompson at the above address. Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Potential operators of training programs for residential services aides

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Procedures are set forth in the proposed amendments

C) Types of Professional Skills Necessary for Compliance: Skills required to operate a residential services aide training program as set forth in the proposed rules

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for this rulemaking was not apparent at the time.

The full text of the Proposed Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 395

LONG-TERM CARE ASSISTANTS AND AIDES TRAINING PROGRAMS CODE

SUBPART A: PROGRAM APPLICATION AND APPROVAL PROCESS

Section	Definitions
395.50	Program Sponsor
395.100	Application for Program Approval
395.110	Review Process and Program Approval
395.120	Review of Approved Training Program
395.130	Inactive Status
395.140	Minimum Hours of Instruction
395.150	Instructor Requirements
395.160	Program Operation
395.170	Successful Completion of the Basic Nursing Assistant Training Program
395.173	Successful Completion of the Developmental Disabilities Aide or Basic Child Care/Habilitation Aide Training Program
395.174	Child Care/Habilitation Aide Training Program
395.175	Program Notification Requirements
395.180	Department Monitoring (Repealed)
395.190	Denial, Suspension, and Revocation of Program Approval
395.200	Other Programs Conducted by Facilities (Repealed)

SUBPART B: TRAINING PROGRAM CURRICULA REQUIREMENTS

Section	Basic Nursing Assistant Training Program
395.300	Developmental Disabilities Aide Training Program
395.310	Basic Child Care/Habilitation Aide Training Program
395.320	Residential Services Aide Training Program
395.330	Waivered Residential Services Aide Training Program

SUBPART C: PROFICIENCY EXAMINATION

Section	Proficiency Examination
395.400	

AUTHORITY: . Implementing and authorized by the Nursing Home Care Act (210 ILCS 451).

SOURCE: Adopted at 13 Ill. Reg. 1974, effective December 1, 1989; amended at 17 Ill. Reg. 2984, effective February 22, 1993; emergency amendment at 20 Ill. Reg. 529, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10085, effective July 15, 1996;

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amended at 22 Ill. Reg. 4057, effective February 13, 1998; amended at 25 Ill. Reg. _____, effective March 20, 2001; amended at 25 Ill. Reg. _____, effective _____.

SUBPART A: PROGRAM APPLICATION AND APPROVAL PROCESS

Section 395.110 Application for Program Approval

- a) The program sponsor shall submit a letter of application for program approval to each Department at least ninety days in advance of the scheduled beginning of the training program. The program sponsor shall not offer the training program prior to receipt of written approval from the Department. The Department will not grant retroactive approval of training programs.
- b) The letter of application shall include at least the following information about the proposed program:
 - 1) A statement of whether the training program being proposed is
 - a) Basic Nursing Assistant Training Program,
 - b) Developmental Disabilities Aide Training Program, or
 - c) Basic Child Care/Habilitation Aide Training Program; or
 - d) Residential Services Aide Training Program.
 - 2) A copy of the sponsor's certificate of approval issued by the State Board of Education or the Board of Higher Education, as appropriate, if the sponsor is a private business, vocational school or college.
 - 3) A statement of the program rationale, including the philosophy and purpose of the program.
 - 4) A statement indicating that the Department's model program based on Section 395.300 of this Part is being used or an outline containing the methodology, content, and objectives for the training program.
 - A) The outline shall indicate the number of hours that will be dedicated to each component of the training program. This outline shall not preclude the instructor from varying the order of presentation of the outlined course components.
 - B) The outline shall address each of the required curricula content requirements contained in Section 395.300 (Basic Nursing Assistant Training Program), Section 395.310 (Developmental Disabilities Aides Training Program), or Section 395.320 (Basic Child Care/Habilitation Aide Training Program) or Section 395.330 (Residential Services Aide Training Program).
- 5) A master schedule for the training program, which includes at least the following:
 - A) The location, classroom designation, and scheduled dates of the training program.
 - B) The allocation of the daily and total hours of instruction

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between theory and clinical instruction.
 C) Identification of theory and clinical instructor(s) and approved evaluator, and whether the instruction is theory or clinical.

D) Curriculum Coordinator, for developmental disabilities aide training programs.

6) Resumes describing the education, experience, and qualifications of each program instructor including a copy of any valid Illinois licenses, as applicable.

7) Any clinical site agreements for the use of facilities and equipment that are not owned or operated by the program sponsor. Such agreements shall be signed by the owner or operator of the facilities or equipment and shall include the dates such facilities or equipment will be used, and a description of the classrooms, laboratory, clinical training equipment, and any other facilities or equipment that will be used in the program.

8) A copy or a description of the tools that will be used to evaluate the following aspects of the training program:

- A) Training program objectives and instructors.
- B) Training program content.
- C) Clinical performance, encompassing all skills taught, and for a Basic Nursing Assistant Training Program, the State-approved manual skills evaluation developed from the curriculum outlined in Section 395.300.

9) A copy of the attendance policy.

c) The program sponsor for all programs except Developmental Disabilities Aide Training Programs and Residential Services Aide Training Programs shall submit the letter of application for approval of a training program to the Department at the following address:

Illinois Department of Public Health
 Office of Health Care Regulation
 Education and Training Section
 525 West Jefferson Street
 Springfield, Illinois 62761

d) No changes will be required in the program content of any training program, which was approved under rules in effect at the time of the adoption of amended rules, until a review by the Department indicates that revisions to the program content are needed to keep the program in compliance with the amended rules.

AGENCY NOTE: The Department has Memoranda of Understanding with the Department of Human Services Mental Health and Developmental Disabilities that agency to administer the approval of the Developmental Disabilities Aide Training Programs and the Residential Services Aide Training Programs in accordance with the requirements of this Part. Questions and correspondence should be directed to the DDMHD Developmental Disabilities Aide Training Curriculum Evaluator, William C. Stratton Building, Room 405, Springfield, Illinois 62765, or to the DHS Residential Services Aide Training Curriculum Evaluator, 160 N. LaSalle Street Suite S1010, Chicago, Illinois 60601.

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(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 395.150 Minimum Hours of Instruction

a) Time frames for Basic Nursing Assistant Training Programs

- 1) Each program shall include a minimum of 120 hours of instruction, excluding breaks, lunch, and any orientation to the specific policies of the employing facility.
- 2) The basic program content shall be presented in a minimum time frame of three weeks, but cannot exceed 120 days, unless the training program is conducted by a community college or other educational institution on a term, semester, or trimester basis.
- 3) There shall be a ratio of two hours of theory, including supervised laboratory, to each hour of supervised clinical practice instruction (i.e., 80 hours of theory and 40 hours of clinical). This ratio applies only to the required 120 hours of instruction.
- 4) A minimum of 12 hours of theory instruction related to Alzheimer's disease and related dementias, as described in Section 395.300(r) through (z), shall be included in each program, excluding breaks, lunch, and any orientation to the specific policies of the employing facility.
- 5) A minimum of 16 hours of training in the following areas must be conducted prior to any direct contact with a resident (42 CFR 483.152(a)(3-6)):

- A) Communication and interpersonal skills;
 - B) Infection control;
 - C) Safety/emergency procedures, including the Heimlich maneuver;
 - D) Promoting residents' independence; and
 - E) Promoting residents' rights.
- b) Time frames for Developmental Disabilities Aide Training Programs and Basic Child Care/Habilitation Aide Training Programs
- 1) Each program shall include a minimum of 120 hours of instruction, excluding breaks, lunch, and any orientation to the specific policies of the employing facility.
 - 2) The basic program content shall be presented in a minimum time frame of three weeks, but cannot exceed 120 days, unless the training program is conducted by a community college or other educational institution on a term, semester, or trimester basis.
 - 3) There shall be a ratio of one hour of theory, including supervised laboratory with the theory instructor, for every two hours of clinical practice instruction (on-the-job training). This ratio applies only to the minimum required 120 hours of instruction.
- c) Time frame requirements for Residential Services Aide Training Programs

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- 1) Each program shall include a minimum of 120 hours of instruction, excluding breaks, lunch, and any orientation to the specific policies of the employing facility.
- 2) The Basic program content shall be presented in a minimum time frame of three weeks, but cannot exceed 120 days.
- 3) For the Health Care Skills Module only, there shall be a ratio of three hours of theory, including supervised laboratory, to each hour of supervised clinical practice instruction. The other two modules will consist of theory and supervised laboratory.
- 4) A waived program may contain fewer than 120 hours if all students are individuals who have satisfactorily completed an Illinois approved Basic Nursing Assistant Training Program, and have at least one year of experience in the last three years working as a nursing assistant with persons with mental illness.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 395.160 Instructor Requirements

- a) Requirements for Instructors in a Basic Nursing Assistant Program or a Basic Child Care/Habilitation Aide Training Program
 - 1) Each course instructor shall be a registered nurse with a minimum of two years nursing experience, who has no other duties while engaged in the training program. Instructors shall be required to have one year of experience as a registered nurse in one or both of the following areas:
 - A) Teaching an accredited nurse's training program.
 - B) Caring for the elderly or for the chronically ill of any age through employment in a nursing facility, extended care unit, geriatrics department, chronic care unit, hospice, swing bed unit of a hospital, or other long-term care setting.
- 2) Each theory course instructor shall also possess at least one of the following qualifications:
 - A) A valid Illinois teaching certificate or a provisional certificate.
 - B) A certificate indicating completion of a Department approved train the trainer workshop/program.
 - C) Evidence of at least one semester of formal teaching experience.
 - D) College course work during the previous six years, which includes at least one course in teaching/learning principles, curriculum development, teaching methods, or instructional techniques.
- b) Requirements for Instructors of the Alzheimer's Disease and Related Dementias (Section 395.300(r) through (z)) Portions of a Basic Nursing Assistant Program

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- 1) Each instructor shall be a registered nurse, who has no other duties while engaged in the training program.
- 2) Each instructor shall also possess at least one of the following qualifications:
 - A) At least one year of experience providing services for patients with Alzheimer's disease and related dementias and at least one semester of formal teaching experience.
 - B) Documentation of completion of a specialized workshop, course, seminar or other training for instruction in Alzheimer's disease and related dementias.
- c) Requirements for Instructors in a Developmental Disabilities Aide Training Program
 - 1) The curriculum coordinator monitors the Developmental Disabilities Aide Training Program and ensures that instructors are qualified and are instructing the program as required.
 - 2) Each program instructor of theory shall meet at least one of the following:
 - A) Be a Qualified Mental Retardation Professional with at least one year of experience with developmental disabilities programs;
 - B) Have a valid Illinois teaching certificate with at least one year of experience with developmental disabilities programs;
 - C) Be a community college or college instructor with at least one year of teaching experience and familiarization with developmental disabilities programs;
 - D) Be a registered nurse with at least one year of experience with developmental disabilities programs.
- d) Requirements for Instructors in a Residential Services Aide Training Program.
 - 1) Each program instructor shall submit verification of successful completion of a train the trainer workshop for each module taught, approved by the Department of Human Services' Office of Mental Health.
 - 2) Instructors for the Introduction to Mental Illness and Psychiatric Rehabilitation Module and the Psychiatric Rehabilitation Skills Module shall either:
 - A) Be a community college or college instructor with at least one year of teaching experience and familiarization with programs for individuals with serious mental illness; or
 - B) Have a bachelor's degree in a mental health-related field or be a certified psychiatric nurse and have at least three years of experience providing services to persons with serious mental illness.
 - 3) Instructors for the Health Care Skills Module shall be a registered nurse with a minimum of two years of nursing experience. Instructors shall be required to have one year of experience as a registered nurse in one or both of the following areas:

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- A) Teaching an accredited nurse training program;
 B) Caring for persons with serious mental illness through employment in a residential setting.
- e)† Supplemental Instructors (Special Content Instructor) in a Basic Nursing Assistant Program and Developmental Disabilities Aide Program must have at least one year experience in their fields of expertise. These would include, but not be limited to, registered nurses, licensed practical nurses, pharmacists, dieticians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists, activities specialists, speech/language/hearing therapists, and resident rights experts. (42 CFR 483.152(a)(5)(iv))

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART B: TRAINING PROGRAM CURRICULA REQUIREMENTS

Section 395.330 Residential Services Aide Training Program

The Residential Services Aide Training Program shall include, at a minimum, the following:

- a) Module I – Introduction to Mental Illness and Psychiatric Rehabilitation
- 1) Mental illness diagnoses and the stress vulnerability model;
 - 2) Disabilities that result from mental illness;
 - 3) Medication in the treatment of mental illness;
 - 4) The impact of stigma;
 - 5) Recovery, empowerment, and self-help;
 - 6) The role of the family;
 - 7) Skills training strategies;
 - 8) Strategies for engaging residents in rehabilitation;
 - 9) Substance use/abuse issues;
 - 10) Vocational rehabilitation;
 - 11) The mental health system: laws and policies; and
 - 12) Community programs and resources: access and collaboration.
- b) Module II – Psychiatric Rehabilitation Skills
- 1) Providing effective resident support:
 - A) Resident rights;
 - B) Abuse/neglect reporting and penalties; and
 - C) Appropriate physical and verbal communication between staff and residents;
 - 2) Reflective listening skills;
 - 3) Assessment, goals, methods, and other key areas;
 - 4) Treatment planning;
 - 5) Working with the treatment team;
 - 6) How-to-train skills;
 - 7) Problem-solving skills;

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- 9) Simple behavioral skills;
 9) Generalizing skills to new situations and settings;
 10) Managing crises;
 11) Preventing and managing aggression; and
 12) Environment and program supports for cognitive deficits.
- c) Module III – Health Care Skills
- 1) Functions of long-term care facilities for persons with serious mental illness;
 - 2) Nutrition:
 - A) Diets and therapeutic diets;
 - B) Fluid intake; and
 - C) Elimination needs;
 - 3) Reporting and recordkeeping:
 - A) Recognizing signs and symptoms;
 - B) The purpose of recordkeeping;
 - C) Types of records;
 - D) Confidentiality; and
 - E) Writing effective progress notes;
 - 4) Safety:
 - A) Basic fire safety;
 - B) Emergency and disaster procedures;
 - C) Injury prevention;
 - D) Body mechanics; and
 - E) Maintaining safe environments;
 - 5) Human growth and development;
 - 6) Principles of disease prevention and control:
 - A) The importance of cleanliness;
 - B) Personal hygiene and patient care;
 - C) Hand washing and disinfection;
 - D) Blood-borne pathogens; and
 - E) Universal precautions and isolation;
 - 7) Medical terminology;
 - 8) Vital signs:
 - A) Temperature;
 - B) Pulse;
 - C) Respiration;
 - D) Blood pressure; and
 - E) Height and weight;
 - 9) Emergency medical procedures:
 - A) First aid; and
 - B) CPR and the Heimlich maneuver;
 - 10) Human sexuality; and
 - 11) Dealing with death and dying.

(Source: Added at 25 Ill. Reg. _____, effective _____)

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- a) The Department may grant waivers from the requirements of Section 395.330 of this Part, based on the information provided in subsection (c) of this Section.
- b) A program sponsor may request a waiver for a Residential Services Aide training program by submitting a request to the Department in writing at least 30 days prior to the start of the training program.
- c) The request for a waiver shall include the following:

- 1) A statement that all trainees have satisfactorily completed a Basic Nursing Assistant training program approved in accordance with Section 395.300 of this Part;
 - 2) A statement that all trainees have at least two years of experience during the preceding five years working as a nursing assistant with persons with mental illness; and
 - 3) A statement that the training program includes, at a minimum, Module I as described in Section 330(a) of this Part and Module II as described in Section 330(b) of this Part.
- d) The training program shall not begin prior to Department approval of the waiver request.

(Source: Added at 25 Ill. Reg. _____, effective _____.)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Automobile Renting Use Tax
- 2) Code Citation: 66 Ill. Adm. Code 190
- 3) Section Numbers: Proposed Action:
190.130 Amendment
- 4) Statutory Authority: 35 ILCS 155
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is in response to Public Act 87-876, which provides that the Use Tax does not apply to the use, in Illinois, of used tangible personal property, other than items of tangible personal property that must be titled or registered with the State of Illinois or whose registration with the United States Government must be filed with the State of Illinois, that the business bought outside of Illinois and used outside Illinois in the operation of the business for at least 3 months before moving the used property to Illinois, and amends Section 190.130 by removing the exemption from tax for the use, by a business that operated in another state and moved to Illinois, of an automobile which the business rented outside Illinois under lease terms of one year or less and used outside Illinois in the operation of such business for at least three months before moving that rented automobile to Illinois for use.

6. Will this proposed amendment replace an emergency amendment currently in effect? No

7. Does this rulemaking contain an automatic repeal date? No

8. Does this proposed amendment contain incorporations by reference? No

9. Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Persons subject to the Automobile Renting Occupation and Use Tax Act

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE

CHAPTER 1: DEPARTMENT OF REVENUE

PART 190

AUTOMOBILE RENTING USE TAX

SUBPART A: NATURE OF THE TAX

Section	Description, Rate and Base of the Tax
190.101	Relation of "Automobile Renting Use Tax to Automobile Renting Occupation Tax
190.105	Collection of the Tax from Rentees by Automobile Rentors Maintaining a Place of Business in This State
190.110	Accounting for the Tax
190.115	How to Avoid Paying Tax on Automobile Renting Use Tax Collected from the Rentee
190.120	

SUBPART B: EXEMPT AUTO RENTING USES AND AUTO RENTERS NOT SUBJECT TO THE TAX

Section	Exemptions to Avoid Multi-State Transactions
190.125	Non-Resident Exemptions
190.130	Meaning of "Rented Outside This State"
190.135	Exempt Rentees
190.140	

SUBPART C: RECEIPT FOR THE TAX

Section	Receipt
190.145	

SUBPART D: INFORMATION CONCERNING PAYMENT OF THE AUTOMOBILE RENTING USE TAX

Section	How the Tax is Paid
190.150	Procedure to Obtain Letter Ruling Documenting Exemption
190.155	

SUBPART E: REGISTRATION OF OUT-OF-STATE RENTORS

Section	When Out-of-State Rentors Must Register to Collect Automobile Renting Use Tax
190.160	Voluntary Registration by Out-of-State Rentors
190.165	

SUBPART F: RENTORS' RETURNS

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Section 190.170 When and Where to File

SUBPART G: INCORPORATION BY REFERENCE

Section 190.175 Incorporation of Certain Sections of 86 Ill. Adm. Code

AUTHORITY: Implementing the Automobile Renting Occupation and Use Tax Act [35 ILCS 155] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted at 9 Ill. Reg. 13098, effective August 12, 1985; amended at 16 Ill. Reg. 4867, effective March 12, 1992; amended at 25 Ill. Reg. _____, effective _____.

SUBPART B: EXEMPT AUTO RENTING USES AND AUTO
RENTERS NOT SUBJECT TO THE TAX

Section 190.130 Non-Resident Exemptions

a) The Automobile Renting Use Tax does not apply to the use, in this State, of an automobile rented outside this State by a non-resident individual who then brings that automobile to this State for use here if that individual has used the rented automobile outside this State at least three months before bringing the rented automobile to this State.

b) ~~Where a business that is not operated in Illinois, but which does operate in another state, is moved to Illinois or opens an office plant or other business facility in Illinois, each business shall not be taxed on its use in Illinois of an automobile which the business rented outside Illinois under lease terms of one year or less and used outside Illinois in the operation of such business for at least three months before moving that rented automobile to Illinois for use here.~~

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Regulations under the Illinois Securities Law of 1953

2) Code Citation: 14 Ill. Adm. Code 130

3) Section Numbers: Adopted Action:
130.200 Amended
130.281 Amended
130.838 Amended
130.839 Amended
130.840 Amended
130.841 Amended

4) Statutory Authority: 815 ILCS 5

5) A complete description of the Subjects and Issues Involved: Section 130.200 Amended to add definition of Investment Adviser Registration Depository (IARD)

Section 130.281 Amended to remove references to federally covered branch offices

Section 130.838 Amended to allow for registration utilizing the IARD system and to prorate fees based on an expiration date of December 31

Section 130.839 Amended to allow for registration utilizing the IARD system and to prorate fees based on an expiration date of December 31

Section 130.840* Amended to include new Form ADV and allow for registration utilizing the IARD system and to prorate fees based on an expiration date of December 31

Section 130.841 Amended to remove references to federally covered branch offices and allow registration utilizing the IARD system and prorate fees based on an expiration date of December 31

6) Will this proposed amendment replace an emergency amendment currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Does the proposed amendment contain incorporation's by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: To register Investment Advisers and Investment Adviser Representatives using the IARD system implemented by the US Securities and Exchange Commission and the NASD and to modify

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

reporting requirements to reflect Revised Form ADV changes.

- 11) Time, Place and Manner in which interested parties may comment on this proposed rulemaking: All comments must be in writing.

Vickie Moseley or Tanya Solov
IL Securities Department
Lincoln Tower
340 South Second Street, Ste 200
Springfield IL 62701

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: This amendment allows Investment Adviser firms to utilize the new electronic registration system should they choose to do so.
- B) Reporting, bookkeeping and other procedures required for compliance: No changes required of small business. Rule allows utilization of the new electronic registration system.
- C) Types of professional skills necessary for compliance: None required. If the electronic registration system is utilized, some computer knowledge is necessary.

- 13) Most recent Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendment's begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER 1: SECRETARY OF STATE

PART 130

REGULATIONS UNDER ILLINOIS SECURITIES LAW OF 1953

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Section	Business Hours of the Securities Department
130.100	Computation of Time
130.101	Payment of Fees
130.110	Place of Filing
130.120	Registration
130.130	Registration of Securities under Section 5 or 7 of the Act Utilizing the SRS
130.135	Requirements as to Proper Form
130.140	Additional Information
130.141	Additional Exhibits (Repealed)
130.142	Information Unknown or Not Reasonably Available
130.143	Requirements as to Paper, Printing, and Language
130.144	Number of Copies--Signatures
130.145	Provisions for Granting of Variance from Rules
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SUBPART B: DEFINITIONS

Section	Definitions of Terms Used in the Act and the Rules
133-200	Definition of the Term "Investment Contract", as Used in Section 2.1 of the Act
130-202	Definition of the Term "Fractional Undivided Interest", as Used in Section 2.1 of the Act with Reference to Oil and/or Gas Leases, Rights or Royalties
130-205	Definition of the Term "Issuer" as Used in Section 2.2 of the Act as Applied to Fractional Interests in Oil, Gas and Other Mineral Leases, Rights or Royalties
130-210	Definition of Acts Not Constituting a "Sale" or "Offer" as Used in Section 2.5 or 2.5a of the Act
130-211	Definition of Acts Not Constituting an "Offer" of Securities under Section 5, 6, 7 or 8 of the Act
130-212	Definition of Acts Not Constituting an "Offer" Under Section 2.5a of the Act (Testing the Waters)
130-215	Definition of Commission From an Underwriter or Dealer Not in Excess of the Usual and Customary Distributors' or Sellers' Commissions, as Used in Section 2.6 of the Act for Certain Transactions
130-216	Definition of "Participates" and "Participation", as Used in Section

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2.6 of the Act in Relation to Certain Transactions
 Definition of "Regularly Engaged in Securities Sales Activities", as
 Used in Section 2.9 of the Act
 130.220
 Exclusion of Certain Persons from the Definition of Investment
 Adviser in Section 2.11 of the Act
 130.221
 Definition of "Investment Fund Shares", as Used in Section 2.15 of
 the Act in Relation to Certain Issuers
 130.225
 Definition of the Phrase "Promissory Note or Draft, Bill of Exchange
 or Bankers' Acceptance" as Used in Section 3(L) of the Act
 130.233
 Definition, For Certain Purposes, of the Terms "Employee
 Security-Purchase Plan", "Employee Profit-Sharing Trust or Plan",
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 3.O of the Act (Repealed)
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 Definition, For Certain Purposes, of the Terms "Employee
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 Used in Section 3.O of the Act (Repealed)
 130.235
 Definition of the Term "Institutional Investor" under Sections 4C
 and 4D of the Act
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 Definition of the Term "Financial Institution" under Section 4.C of
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 130.242
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 of Section 13 or Section 15(d)" as Used in Section 4.2(L) of the Act
 130.245
 Definition of the Terms "Balance Sheet" and "Income Statement", as
 Used in Section 4.3 of the Act
 130.246
 Definition of the Terms "Residents of this State", "Aggregate Sales
 Price" and "Sales Made in Reliance Upon the Exemption" Under Section
 4.G of the Act and "General Advertising" or "General Solicitation"
 Under Sections 4.G, 4.H, 4.M and 4.R of the Act
 130.247
 Definition of the Term "Public" as Used in Section 4(G)(4) of the
 Act
 130.248
 Definition of the Terms "Offers for Sale" and "Solicitations of
 Offers to Buy", as Used in Section 4.L of the Act
 130.250
 Definition, For Certain Purposes, of the Terms "Commissions,
 Remuneration or Discounts", as Used in Section 4 and Section 5 of
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 130.251
 Definition of the Term "Maximum Aggregate Price", as Used in Section
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 Definition of the Term "Branch Office" of a Registered Investment
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 130.282
 Definition, For Certain Purposes, of the Term "Officers", as Used in

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Section 2.9 and Section 8.B.(6) of the Act
 Definition, For Certain Purposes, of the Terms "Inequitable", "Tend
 to Work a Fraud or Deceit", "Inequitable Practice in the Sale of
 Securities", and "Fraudulent Business Practices", as Used in Section
 8 and Section 11 of the Act
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 130.531 Computation of Fees
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 130.534 Powers to Amend or Withdraw Registration Statement
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 130.550 Legibility of Prospectuses
 130.570 Presentation of Information in Prospectuses
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SUBPART F: FACE AMOUNT CERTIFICATE CONTRACTS

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130.700 Preamble
 130.701 Title of Investment Fund Shares Registered Under Section 5 or 7 of the Act
 130.710 Procedures for Registration of Investment Fund Shares by Coordination Under Section 7.A of the Act
 130.715 Amendment Statement for the Registration of Additional Class or Classes or the Reporting of a Change in Organization or Operations Pursuant to Section 7(D) of the Act
 130.730 Renewal of Registration of Investment Fund Shares Under Section 7(G) of the Act
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 130.806 Acts Not Requiring a Notification Filing of a Federal Covered Investment Adviser or Registration as an Investment Adviser or Investment Adviser Representative Under Section 8 of the Act
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 130.823 Procedure for Requesting Waiver of Dealer, Salesperson, Investment Adviser, Investment Adviser Representative, or Principal Examination Requirements
 130.824 Financial Statements to be Filed by a Registered Dealer
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 130.826 Registered Dealer Net Capital Requirements
 130.827 Confirmations
 130.828 Notice of Materially Adverse Financial Condition Required to Be Filed with the Securities Department By a Registered Dealer
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 130.832 Examinations Deemed Satisfactory for Purposes of Determining Sufficient Knowledge Under Section 8.C(7) of the Act for Registration as a Salesperson
 130.838 Procedures for Federal Covered Investment Adviser Notification Filing and Fees Under Section 8.C-5 of the Act
 130.839 Procedures for Registration as an Investment Adviser Representative

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130.842 Examinations and Education Programs Deemed Satisfactory for Purposes
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130.843 Examination and Education Program Requirements for Registration the
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130.844 Statement of Financial Condition to Be Filed By a Registered
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Client and Six (6) or More Months in Advance and Interim Financial
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130.845 Records Required of Investment Advisers
130.846 Written Disclosure Statements of a Registered Investment Adviser
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130.852 Compensation
130.853 Account Transactions
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130.872 Procedure with Respect to Abandoned Dealer Applications
130.873 Procedure with Respect to Abandoned Investment Adviser Applications

SUBPART J: SERVICE OF PROCESS

Section
130.1101 Service of Process upon the Secretary of State

SUBPART K: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section
130.1100 Preamble
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130.1104 Requirement to File an Answer
130.1105 Amendment or Withdrawal of the Notice of Hearing
130.1106 Representation
130.1107 Special Appearance
130.1108 Substitution of Parties
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SUBPART O: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section
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SUBPART P: SAVINGS PROVISIONS

Section
130.1561 Investors Syndicate of America, Inc.
130.1562 State Bond and Mortgage Company

SUBPART Q: PUBLIC INFORMATION

Section
130.1701 Inspection of Applications
130.1702 Inspection of Dealer, Salesperson and Investment Adviser Records
130.1703 Non-Public Distribution of Information

ARTICLE IV: Implementing and authorized by the Illinois Securities Law of 1953
(815 ILCS 5).

SOURCE: Filed February 23, 1977, effective March 5, 1977; amended at 5 Ill. Reg. 9139, effective August 27, 1981; amended at 6 Ill. Reg. 6455, effective May 19, 1982; codified at 6 Ill. Reg. 12674; emergency amendment at 7 Ill. Reg. 17427, effective December 31, 1983, for a maximum of 150 days; emergency expired May 31, 1984; emergency amendment at 8 Ill. Reg. 1476, effective

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January 18, 1984, for a maximum of 150 days; emergency expired June 17, 1984; emergency repealer at 8 Ill. Reg. 3803, effective March 14, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13419, effective July 12, 1984; amended at 8 Ill. Reg. 13840, effective July 19, 1984; emergency amendment at 8 Ill. Reg. 13869, effective July 20, 1984, for a maximum of 150 days; emergency expired December 17, 1984; amended at 9 Ill. Reg. 208, effective December 20, 1984; emergency amendment at 10 Ill. Reg. 393, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 10753, effective June 3, 1986; reclassified at 10 Ill. Reg. 19554; emergency amendment at 13 Ill. Reg. 11017, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 14 Ill. Reg. 884, effective December 30, 1989; amended at 4 Ill. Reg. 3186, effective March 26, 1990; emergency amendment at 15 Ill. Reg. 14303, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16007, effective March 27, 1992; amended at 20 Ill. Reg. 14185, effective October 21, 1996; amended at 21 Ill. Reg. 691923, effective May 23, 1997; amended at 21 Ill. Reg. 7770, effective May 23, 1997; amended at 21 Ill. Reg. 8415, effective June 20, 1997; effective May 23, 1997; amended at 21 Ill. Reg. 8528, effective July 8, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15892, effective December 1, 1997; amended at 22 Ill. Reg. 1933, effective January 1, 1998; emergency amendment at 24 Ill. Reg. 341, effective December 31, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 7401, effective May 1, 2000; emergency amendment at 25 Ill. Reg. 973, effective January 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS

Section 130.200 Definitions of Terms Used in the Act and the Rules

- a) As used in the Act and this Part, unless the context otherwise requires, the term:

"Act" means the Illinois Securities Law of 1953 [815 ILCS 5] and this Part.

"Affiliate" of, or a person "affiliated" with, a specified person means a person who, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

"Amount", when used in regard to securities, means the principal amount relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

"Applicant" means the person making application for registration or exemption.

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"Certified", when used in regard to financial statements, means examined and reported upon with an opinion expressed by an independent public or certified public accountant.

"CFTC" means the Federal Commodity Futures Trading Commission.

"Charter" includes articles of incorporation, a declaration of trust, articles of association or partnership, or any similar instrument, as amended, affecting (either with or without filing with any governmental agency) the organization or creation of an incorporated or unincorporated person.

"Correspondent" means the person authorized in the application for registration or exemption to receive notices and communications from the Secretary.

"Controlling Person" as used in Section 4.F of the Act shall not include any sponsor of a unit investment trust after the completion of the initial distribution.

"CPD" means the computer registration system for the registration of dealers and salespersons known as the "Central Registration Depository" operated by the NASD.

"Customer" as used in Section 130.270 of this Part means any person for whom the futures commission merchant effects or intends to effect transactions in futures, options on futures, or any other instruments subject to CFTC jurisdiction.

"Director" means any director of a corporation or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

"Employee" does not include a director, trustee, or officer.

"Federal 1933 Act" means the Act of the Congress of the United States known as the Securities Act of 1933 (15 USC 77a-77aa), as in effect on August 1, 1997 (no subsequent amendments or editions).

"Federal 1934 Act" means the Act of Congress of the United States known as the "Securities Exchange Act of 1934" (15 USC 77b-77ee-77aa-77aa), as in effect on August 1, 1997 (no subsequent amendments or editions).

"Federal 1936 Act" means the Act of Congress of the United States known as the Commodity Exchange Act of 1936 (7 USC 5b-5e-1 et seq.), as in effect on August 1, 1997 (no subsequent

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amendments or editions).

"Federal 1940 Investment Company Act" means the Act of Congress of the United States known as the Investment Company Act of 1940, (15 USC 81a-81e, 81a-1-81a-52), as in effect on August 1, 1997 (no subsequent amendments or editions).

"Federal 1940 Investment Advisers Act" means the Act of Congress of the United States known as the Investment Advisers Act of 1940 (15 USC 80b-1-80b-21), as in effect on August 1, 1997 (no subsequent amendments or editions).

"Federal Banking Act of 1933" means the Federal Banking Act of 1933 (12 USC 81a-81e, 227), and the Rules and Regulations thereunder, as in effect on August 1, 1997 (no subsequent amendments or editions).

"Federal covered investment adviser representative" means any person with a place of business in this State who is an investment adviser representative of a federal covered investment adviser.

"Federal Public Utility Holding Company Act of 1935" means the Public Utility Holding Company Act of 1935, (15 USC 81a-81e, 81a-1-81a-52), as in effect on August 1, 1997 (no subsequent amendments or editions).

"Fiscal Year" means the annual accounting period or, if no accounting period has been adopted, the calendar year ending on December 31.

"Futures" and "Futures Contracts" as used in Section 130.270 of this Part mean contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market designated by the CFTC or traded on or subject to the rules of any board of trade located outside the United States, its territories or possessions.

"Futures Commission Merchants" as used in Section 130.270 of this Part means individuals, associations, partnerships, corporations and trusts engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee or secure any trades or contracts that result or may result therefrom.

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"Hearing" means a proceeding conducted by the Securities Department in which the rights, privileges, immunities, duties or obligations of any person are being attacked by law to be determined by the Secretary only after opportunity for a hearing.

"Hearing Officer" means the designee of the Secretary or the Securities Director who, pursuant to Section 11 of the Act, is designated in the Notice of Hearing to preside at a hearing conducted pursuant to Section 11 of the Act or any person so designated as a substitute hearing officer.

"IARD" means the computer web-based registration system for the registration of investment advisers and investment adviser representatives known as the Investment Adviser Registration Depository operated by the NASD.

"Identifying Statement" means a written or oral communication or advertisement meeting the requirements of Section 130.210(b)(1) of this Part.

"Insolvency" or "insolvent" means the inability to pay debts and obligations when due or when current liabilities exceed current assets. Any party regulated by this Part claiming insolvency shall file with the Securities Department a balance sheet prepared as of a current date and executed and verified by the chief financial officer of the issuer.

"Internal Revenue Code" means the Internal Revenue Code of 1986 (26 USC 81a-81e, 1-81e), and the Rules and Regulations thereunder, as in effect on August 1, 1997 (no subsequent amendments or editions).

"Majority-Owned Subsidiary" means a subsidiary more than 50% of whose outstanding securities, which represent the right, other than as affected by events of default, to vote for the election of directors, is owned by the subsidiary's parent and/or one or more of the parent's other majority-owned subsidiaries.

"Material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which there is a substantial likelihood that a reasonable investor would consider it important in deciding upon a course of action to be taken, including, but without limitation, purchasing, selling or holding the security or securities involved, or accepting or rejecting an offer or proposal made with regard to any security or securities.

"NASD" means the self-regulatory organization registered under

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the Federal 1934 Act, as defined in this Section, known as the "National Association of Securities Dealers, Inc."

"Nonaccredited Investor" as used in Section 130.420 of this Part means a person who is not a person set forth in Section 4.C, 4.H, 4.R or 4.S of the Act.

"Office", unless otherwise clarified, refers to the Office of the Securities Department of the Secretary of State, and not to any particular address or location.

"Officer" means the president; any vice president in charge of a principal business unit, division or function; the secretary; the treasurer; any principal financial officer, comptroller or principal accounting officer; any other officer performing a principal policy-making function and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

"Options on Futures" as used in Section 130.270 of this Part means puts or calls on a futures contract traded on or subject to the rules of a contract market designated by the CFTC or traded or subject to the rules of any board of trade located outside the United States, its territories or possessions.

"Pacific Coast Stock Exchange, Inc." means the Pacific Stock Exchange, Inc.

"Parent" of a specified person means an affiliate controlling such person directly or indirectly through one or more intermediaries.

"Party" means any person named as a petitioner or a respondent in a hearing conducted by the Securities Department.

"Person" means a natural person, a corporation, a partnership, a limited partnership, a limited liability company, a limited liability limited partnership, an association, a joint stock company, a trust or any unincorporated organization except that as used in this Section, the word "trust" includes only a trust where the interest or the interests of the beneficiary or beneficiaries are a security.

"Place of Business" of a federal covered investment adviser representative means a location at which the federal covered investment adviser representative provides investment advisory services, solicits, meets with, or otherwise communicates with clients, and any other location that is held out to the general

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public as a location at which the investment adviser representative provides investment advisory services, solicits, meets with, or otherwise communicates with clients.

"Predecessor" means a person, the major portion of the business and assets of which another person acquired in a single succession or in a series of related successions in each of which the acquiring person acquired the major portion of the business and assets of the acquired person.

"Preliminary Prospectus" means a document meeting the requirements of Section 130.210(b)(2) of this Part.

"Principal Underwriter" means an underwriter in privity of contract with the issuer of the securities as to which such person is an underwriter.

"Promoter" means

any person who, acting alone or in conjunction with one or more other persons, directly or indirectly takes initiative in founding and organizing the business or enterprise of an issuer; or

any person who, in connection with the founding and organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both, 10% or more of any class of securities of the issuer or 10% or more of the proceeds from the sale of any class of securities of the issuer. However, a person who receives the securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this subsection if the person does not otherwise take part in founding and organizing the enterprise.

"Prospectus" means any prospectus, notice, circular, advertisement, letter or communication, written or by radio, television or other communications medium, which offers any security for sale or confirms the sale of any security; except that a communication sent or given after the effective date of the registration of the security (other than a prospectus permitted under Section 10(b) of the Federal 1933 Act, as defined in this Section) shall not be deemed a prospectus if it is proved that, prior to or at the same time as the communication, a written prospectus, meeting the requirements of Section 10(a) of the Federal 1933 Act, as defined in this Section at the time of the communication, was sent or given to the person to whom the

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communication was made, and a notice, circular, advertisement, letter or communication in respect to a security shall not be deemed to be a prospectus if it states from whom a written prospectus meeting the requirements of Section 5 of the Act may be obtained and, in addition, does no more than identify the security, state the price thereof, state by whom orders will be executed, and contain such other information as the Secretary by the Sections in this Part deems necessary or appropriate in the public interest and for the protection of investors and, subject to such terms and conditions as may be described therein, may permit.

"Regulated Account" as used in Section 130.270 of this Part means a customer segregation account subject to 17 CFR 1.20 as in effect on August 1, 1997 (no subsequent amendments or editions); provided, however, that, where such regulations do not permit to be maintained in such an account or require to be maintained in a separate regulated account funds or securities in proprietary accounts or funds or securities used as margin for or excess funds related to futures contracts, options on futures or any other instruments subject to CFTC jurisdiction that trade outside the United States, its territories or possessions, the term "regulated account" means such separate regulated account or any other account subject to 17 CFR 1.31 et seq. as in effect on August 1, 1997 (no subsequent amendments or editions).

"Registrant" means the issuer of the securities which are the subject of the application for registration.

"Rules" refers to all rules adopted by the Secretary pursuant to the Act.

"Share" means a share of stock in a corporation or unit of interest in an unincorporated person.

"SEC" means the United States Securities and Exchange Commission.

"Secretary of State" or "Secretary" means the Secretary of State of Illinois.

"Section" refers to a section of this Part unless a reference to the Act is specifically made.

"Securities Department" means the Securities Department of the Office of the Secretary of State.

"Securities Protection Act of 1970" means the Securities Investor Protection Act of 1970 (15 USC 78-56f Sec 78aaa et seq. as in

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effect on August 1, 1997; (no subsequent amendments or editions).
 "Segregated Customer Funds" as used in Section 130.270 of this Part means funds subject to 17 CFR Part 1.20 as in effect on August 1, 1997 (no subsequent amendments or editions).

"SRD" means the automated computer registration system for the registration and renewal of registration of securities, investment fund shares and unit investment trusts registered under the Federal 1933 Act and Federal 1940 Investment Company Act known as the Securities Registration Depository.

"Significant Subsidiary" means a subsidiary where:

the assets of the subsidiary, or the investments in and advances to the subsidiary by its parent and the parent's other subsidiaries, if any, exceed 15% of the assets of the parent and its subsidiaries on a consolidated basis; or
 the sales and operating revenues of the subsidiary exceed 15% of the sales and operating revenues of its parent and the parent's subsidiaries on a consolidated basis.

In determining whether a subsidiary is a significant subsidiary, such a subsidiary shall be considered in the aggregate with any subsidiaries of which it is the parent.

"State Bond and Mortgage Company" means the company currently known as SBM Certificate Company or any successor company.

"Subsidiary" of a specified person is an affiliate controlled by such person directly or indirectly through one or more intermediaries. (See also "Majority-Owned Subsidiary", "Significant Subsidiary" and "Totally-Held Subsidiary".)

"Succession" means the direct acquisition of the assets comprising a going business, whether by merger, consolidation, purchase or other direct transfer. The term does not include the acquisition of control of a business unless followed by the direct acquisition of its assets. The terms "succeed" and "successor" have the same meaning as "succession".

"Totally-Held Subsidiary" means a subsidiary substantially all of whose outstanding securities are owned by its parent and/or the parent's other totally-held subsidiaries, and which is not indebted to any person other than its parent and/or the parent's other totally-held subsidiaries in an amount which is material in relation to the particular subsidiary, excepting indebtedness

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incurred in the ordinary course of business which is not overdue and which matures within one year from the date of its creation, whether evidenced by securities or not.

"Unit Investment Trust" means an investment company which:

is organized under a trust indenture, agency or custodianship contract or similar instrument, does not have a board of directors; and
issues only redeemable securities, each of which represents an undivided interest in a unit of specified securities.

The term "unit investment trust" does not include a voting trust.

"Unsolicited Transaction" as used in Section 130.270 of this Part means a transaction that is not effected in a discretionary account or recommended to a customer by the futures commission merchant, an associated person of a futures commission merchant, a business affiliate that is controlled by, controlling, or under common control with the futures commission merchant, or an introducing broker that is guaranteed by the futures commission merchant.

- b) A Section in this Part which defines a term without express reference to the Act or to this Part or to a portion thereof or hereof defines such term for all purposes as used both in the Act and in this Part. Terms defined in the Act and not defined in this Part have the meanings given them in the Act.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 130.281 Definition of the Term "Branch Office" of a Registered Investment Adviser or a Federal-Covered Investment Adviser, as Used in Section 8 of the Act

- a) "Branch office" as used in Section 8 of the Act shall mean any office, residence or other place or location in this State where the registered investment adviser or the federal-covered investment adviser or its investment adviser representatives provide investment advisory services, solicit, meet with, or otherwise communicate with clients, or any other location that is held out to the general public as a location at which the registered investment adviser or the federal-covered investment adviser or its investment adviser representatives provide investment advisory services, solicit, meet with, or otherwise communicate with clients.
- b) The principal office located in this State of the registered

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investment adviser or the federal-covered investment adviser, if any, shall not be considered a branch office.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART H: REGISTRATION OF DEALERS, SALESPERSONS, AND INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

Section 130.838 Procedures for Federal Covered Investment Adviser Notification Filing and Fees Under Section 8.C-(5) of the Act

- a) Federal covered investment advisers shall file with the Securities Department copies of page 1 of the most recent Form ADV, Schedule E, and Schedule I to Form ADV. The federal covered investment adviser shall also pay the filing fee specified in Section 130.110 of this Part.
- b) For purposes of annual notification filing a federal covered investment adviser shall file with the Securities Department the Annual Notification filing form and Schedule I to Form ADV, or copies of page 1 of the most recent Form ADV, Schedule E and Schedule I to Form ADV. The federal covered investment adviser shall also pay the filing fee specified in Section 130.110 of this Part.
- c) Amendments to page 1 of Form ADV shall be filed with the Securities Department at the same time they are filed with the SEC.
- d) In the event the federal covered investment adviser changes the form of its organization it shall pay the fee specified in Section 130.110 of this Part.
- e) A federal covered investment adviser that is no longer eligible for SEC registration shall file as an investment adviser with the Securities Department within 90 days after the date the investment adviser is required to file Schedule I to Form ADV with the SEC indicating it is no longer eligible for SEC registration.
- f) In the event the notification or the full amount of fees required by this Section are not filed with or paid to the Secretary of State, the Secretary of State shall notify the federal covered investment adviser of such deficiency in writing, or by facsimile or electronic transmission (provided that the Securities Department can demonstrate in the normal course of its business that the notice was delivered or transmitted to and received by the federal covered investment adviser or its designee). In the event the federal covered investment adviser fails to remedy the deficiency within ten business days after receiving notice of such deficiency from the Secretary of State, the Secretary of State may deem such a refusal and may, until October 11, 1999, require the federal covered investment adviser to register pursuant to subsections A and D of Section 8 of the Act.
- g) For the limited purpose of this Section and solely for the filings and/or fees submitted to the RAND, the terms with the Secretary of

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State" as used in Sections 8.C-5, 8.D, 8.D-5 and 8.H and "with the Securities Department" as used in this Section shall include a filing and/or fee made with the NASD utilizing the IARD.

- b) Proration. Fees paid with annual notifications filed in the calendar year 2001 (except late filing fees, if any) shall be prorated based upon the number of months remaining in calendar year 2001. All annual notifications filed in the calendar year 2001 shall expire at the end of the day on December 31, 2001. Beginning in the calendar year 2002, all filings shall be on a calendar year basis.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 130.839 Procedures for Registration as an Investment Adviser Representative Under Section 8.D-15) of the Act

- a) Each investment adviser and federal covered investment adviser shall file with the Securities Department a complete and current application for each investment adviser representative and pay to the Securities Department the filing fee specified in Section 130.110 of this Part.
- b) The application shall consist of a Form U-4 for each investment adviser representative.
- c) For purposes of the annual re-registration of investment adviser representatives, each investment adviser and federal covered investment adviser shall file with the Securities Department the annual re-registration of investment adviser form, or the annual notification filing form for federal covered investment advisers, and pay to the Securities Department the filing fee specified in Section 130.110 of this Part.

- d) For the purposes of this Section an investment adviser representative of a federal covered investment adviser shall mean any partner, officer, director (or other person occupying a similar status or performing similar functions), or an employee of a federal covered investment adviser, or any other person who provides investment advice on behalf of the federal covered investment adviser and is subject to the supervision and control of the federal covered investment adviser, if:

- 1) more than ten percent of such person's clients are natural persons, other than sophisticated clients; and
 - 2) such person has a place of business in the State of Illinois.
- As used in this subsection, the term "sophisticated client" shall mean a natural person who, immediately after entering into the investment advisory contract with the federal covered investment adviser, has at least \$500,000 under management with the federal covered investment adviser or the federal investment adviser reasonably believes, immediately prior to entering into the advisory contract, the person has a net worth (together with assets held jointly with a spouse) at the time the contract is entered into of more than \$1,000,000.

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- e) The application on file with the Securities Department shall be amended whenever a change occurs that renders inaccurate any information contained in the application. The amendment shall be filed with the Securities Department within ten business days after the occurrence of the change.
- f) In the event the investment adviser representative's activities are terminated, the investment adviser shall file a Form U-5 with the Securities Department within 30 days after the termination.
- g) In the event the investment adviser representative transfers registration from one investment adviser or federal covered investment adviser to another investment adviser or federal covered investment adviser, the new investment adviser or federal covered investment adviser shall file a Form U-4 with the Securities Department, and pay to the Securities Department the filing fee specified in Section 130.110 of this Part.

- h) For the limited purpose of this Section and solely for filings and/or fees submitted to the IARD, the terms "with the Secretary of State" as used in Sections 8.C-5, 8.D, 8.D-5 and 8.H and "with the Securities Department" as used in this Section shall include a filing and/or fee made with the NASD utilizing the IARD.

- i) Proration. Filing fees paid with the annual re-registration of each investment adviser representative filed in the calendar year 2001 (except late filing fees, if any) shall be prorated based on the number of months remaining in calendar year 2001. All annual re-registrations of investment adviser representatives filed in the calendar year 2001 shall expire at the end of the day on December 31, 2001. Beginning in calendar year 2002, all annual re-registrations of investment adviser representatives shall be on a calendar year basis.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 130.840 Procedures for Registration as an Investment Adviser Under Section 8.D of the Act

- a) Each applicant for registration as an investment adviser shall file with the Securities Department a complete and current application and pay to the Securities Department the filing fee and branch office fee, if any, specified in Section 130.110 of this Part. The application shall consist of the following:

- 1) The Revised Uniform Application for Investment Adviser Registration (Form ADV) required by 17 CFR 279.1 as in effect on October 10, 2000 August 17-1997 (no subsequent amendments or editions) including Schedule D B thereto listing all branch offices in this State, if any;
- 2) A balance sheet for the investment adviser as of a date not more than 60 days prior to the date of the filing of the application. The balance sheet shall be verified and executed by the chief

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financial officer of the investment adviser, if any, or other person performing a similar function and must contain:

- A) an affirmation that the information is true and correct; and
 - B) a statement disclosing whether the investment adviser retains or during the term of registration will retain custody of any client's cash or securities or accept pre-payment of fees in excess of \$500.00 per client and six or more months in advance;
 - 3) One copy of page one of the applicant's most recent Articles of Incorporation or, if a partnership, certificate of assumed name or similar document evidencing the legal name of the applicant;
 - 4) At or prior to registration of the investment adviser, there shall be on file with the Securities Department, whether through the CRD, IARD or otherwise, the following:
 - A) Proof of passing one or more of the requisite examinations, certifications or designations listed in Section 130.842 of this Part for each required principal, unless the Secretary shall have issued an order waiving such requirement pursuant to Section 8.D of the Act; and
 - B) Any and all amendments required to the application and documents filed pursuant to subsection (a) of this Section, whether as a result of a change in the information provided since the date of filing or otherwise;
 - 5) One copy of Form U-4 for each investment adviser representative who renders investment advice in this State on behalf of the applicant and the fee specified in Section 130.110 of this Part;
 - 6) One copy of the Illinois Form containing an attestation that the investment adviser has not previously rendered investment advice for compensation in this State, or setting forth a claim of exemption or exclusion; and
 - 7) One copy of a written statement manually executed by an officer, partner or principal of the registered dealer consenting to the dual registration as investment adviser and salesperson, if registered as a salesperson in this State.
- b) The application and documents on file with the Securities Department with respect to the investment adviser shall be amended from time to time whenever a change occurs which renders any material information contained therein not accurate in any material respect. Such amendment shall be filed with the Securities Department within ten business days after the occurrence of the change.
- c) For purposes of this Section, material information includes, but is not limited to:
- 1) the name and address of the investment adviser;
 - 2) type of business organization of the investment adviser;
 - 3) disciplinary action concerning the investment adviser;
 - 4) whether the investment adviser has custody of clients' funds or securities or accepts pre-payment of in excess of \$500-00;
 - 5) whether the investment adviser has discretion over clients'

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- 6) whether the investment adviser will give clients Part II of the Uniform application for Investment Adviser Registration required by subsection (a)(1) of this Section or another document containing the same information.
- d) For the limited purpose of this Section and solely for the filings and/or fees submitted to the IARD, the terms "with the Secretary of State" as used in Sections 8.C-3, 8.D, 8.D-5 and 8.H and "with the Securities Department" as used in this Section shall include a filing and/or fee made with the NASD utilizing the IARD.
- e) Proration. Filing fees paid with annual re-registration filed in the calendar year 2001 (except late filing fees, if any) shall be prorated based upon the number of months remaining in the calendar year 2001. All new registration applications and re-registration applications filed in the calendar year 2001 shall expire at the end of the day on December 31, 2001. Beginning in the year 2002, all filings shall be on a calendar year basis.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 130.841 Reporting of Investment Adviser Branch Office Location(s) and Required Fees

- a) Each investment adviser and ~~federal-covered~~ investment adviser shall file with the Securities Department with its application for registration ~~or notification~~ filing a schedule setting forth the address of each branch office in this State as defined in Section 130.280 of this Part. A Schedule B of the Revised Uniform Application for Investment Adviser Registration required by Section 130.840(a)(1) of this Part disclosing each branch office in this State shall be accompanied by the payment of the fee in the form and amount specified in Section 130.110 of this Part for each branch office in this State.
- b) Each registered investment adviser and ~~federal-covered~~ investment adviser shall file or have filed with the Securities Department prior to re-registration ~~or notification~~ renewal a schedule setting forth the address of each branch office and pay the Securities Department in Springfield a fee in the form and amount specified in Section 130.110 of this Part for each branch office in this State.
- c) No registration or re-registration or ~~notification~~ or ~~notification renewal~~ of an investment adviser or ~~a federal-covered~~ investment adviser shall become effective until such schedule of the investment adviser's or ~~the federal-covered~~ investment adviser's branch offices has been filed with the Securities Department and such fee, if any has been paid.
- d) The registered investment adviser shall amend its application for registration by filing with the Securities Department in Springfield

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within ten business days after:

- 1) the opening of any branch office in this State not previously reported and setting forth the address of that such branch office; and
 - 2) the closing of any branch office in this State and setting forth the address of that such branch office.
- e) For the limited purpose of this Section and solely for the filings and/or fees submitted to the IARD, the terms "with the Secretary of State" as used in Sections 8-C-5, 8-D, 8-D-5, and 8-H and "with Securities Department" as used in this Section shall include a filing and/or fee made with the NASD utilizing the IARD.
- f) Proration. Filing fees paid with annual re-registration filed in the calendar year 2001 (except late filing fees, if any) shall be prorated based upon the number of months remaining in the calendar year 2001. All new registration applications and re-registration applications filed in the calendar year 2001 shall expire at the end of the day on December 31, 2001. Beginning in the year 2002, all filings shall be on a calendar year basis.
- g) ~~A federal covered investment adviser shall file with the Securities Department in Springfield each amendment to Schedule B of Form ADV when filed with the SEC.~~

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Variable Contracts
- 2) Code Citation: 50 Ill. Adm. Code 1451
- 3)

Section Number:	Adopted Action:
1451.20	Amendment
1451.30	Amendment
1451.40	Amendment
1451.50	Amendment
1451.60	Amendment
1451.80	Amendment
1451.90	Amendment
1451.100	Amendment
- 4) Statutory Authority: Implementing Article XIV 1/2 of the Illinois Insurance Code [215 ILCS 5/245.21] and authorized by Sections 401 and 245.24 of the Illinois Insurance Code [215 ILCS 5/401 and 245.24]
- 5) Effective Date of Amendments: March 5, 2001
- 6) Do these amendments contain an automatic amendment date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 15, 2000, 24 Ill. Reg. 13801
- 10) Has JCRC issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version:
 - a) All source notes have been changed from "24" to "25".
 - b) Section 1451.20, in the definition of "Code" change "including any of the Acts in Chapter 215 of the Illinois Compiled Statutes" to "[215 ILCS 5]."
 - c) Section 1451.90(c), delete the last sentence.
 - d) Section 1451.100(a)(5), strike "such" and add "the" in lieu thereof.
 - e) Section 1451.100(c), strike "such" and add "the" in lieu thereof.
- 12) Have all changes agreed upon by the agency and JCRC been made as indicated

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in the agreements issued by JC&R? No
13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: Section 1451.50(b) requires insurers to file with the Department the effective prospectus which is applicable to variable contracts issued in Illinois. Historically, the Department has never found reason to refer to a prospectus, and so to save the time and the cost to microfilm and store them, the Department is eliminating the requirement that insurers file a prospectus applicable to variable contracts issued in Illinois. Additionally, Section 1451.50(d) will be added requiring insurers to notify the Department of the effective date and file number that the Securities and Exchange Commission has assigned the applicable variable contract before the Department can approve such contract. These amendments will also more accurately reflect the Department's examination requirements for obtaining a variable contract producer's license.

16) Information and questions regarding these adopted amendments shall be directed to:
Chuck Budinger
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 782-4572

The full text of the adopted amendments begins on the next page.

DEPARTMENT OF INSURANCE
NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER 1: DEPARTMENT OF INSURANCE
SUBCHAPTER 1: SEPARATE ACCOUNTS

PART 1451

VARIABLE CONTRACTS CONTRACT-RB&B

Section	Authority
1451.10	Definitions
1451.20	Qualification of Insurance Companies to Issue Variable Contracts
1451.30	Separate Accounts
1451.40	Filing of Contracts
1451.50	Contracts Providing for Variable Benefits
1451.60	Required Reports
1451.70	Foreign or Alien Companies
1451.80	Licensing of Producers for Variable Contracts
1451.90	Disclosure
1451.100	Examination of Agents

APPENDIX A Variable Annuities Only

AUTHORITY: Implementing Article XIV 1/2 of the Illinois Insurance Code [215 ILCS 5/Art. XIV 1/2] and authorized by Sections 401 and 245.24 of the Illinois Insurance Code [215 ILCS 5/401 and 245.24].

SOURCE: Filed February 18, 1972, effective March 1, 1972, modified at 7 Ill. Reg. 42117, amended at 25 Ill. Reg. 42117, effective 42117 MAR 13 2001

Section 1451.20 Definitions

Code means the Illinois Insurance Code [215 ILCS 5].

"Agent," when used in this Part, shall mean any person, partnership, association or corporation which under the Illinois Insurance Code is licensed as a life insurance agent, broker or solicitor. The term "agent" also includes any person, partnership, association or corporation who or which represents a fraternal benefit company operating on a legal reserve basis, and who or which solicits negotiates or effects for or on behalf of any such company, policies or contracts for insurance covering risks in this State.

"Company," when used in this Part, shall mean a stock or mutual legal reserve life insurance company or a fraternal benefit company that which operates on a legal reserve basis. It does not include an assessment legal reserve company, or any other company as that term is defined in subsection (e) of Section 2 of the Illinois Insurance Code [215 ILCS 5/2(e)] (11th Rev. Stat. 1901, ch. 73, par. 614(e)).

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1983 Table "a" means the mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners.

Producer shall mean any person who is licensed as a life insurance producer under the Illinois Insurance Code. The term producer also includes any person who represents a fraternal benefit company operating on a legal reserve basis, and who solicits, negotiates or effects, for or on behalf of any such company, policies or contracts for insurance covering risks in this State.

Securities Examination shall mean proof of passing either of the NASD Series 6 or 7 Qualification Examinations or any superseding NASD examination that grants a person authority to sell variable contracts.

"Securities examinations" as used in Section 145i-90(c) and (e) of this Part shall mean any one of the following examinations:

any State Securities Sales Examination accepted by the Securities and Exchange Commission;
the National Association of Securities Dealers, Inc.--Examination for Principals or Examination for Qualification as a Registered Representative;

The various securities examinations required by the New York Stock Exchange--the American Stock Exchange--Pacific Stock Exchange--or any other registered national securities exchange;
the Securities and Exchange Commission test given pursuant to Section 15(b)-(8) of the Federal Securities Exchange Act of 1934 (15-U.S.C. 78a-8 et seq.);

Part I of the examination recommended for the testing of variable contract agents--by the National Association of Insurance Commissioners--when adopted by the Insurance Department of any State--or Territory of the United States--and approved for use by such Department by the Securities and Exchange Commission; if such examination was successfully completed prior to July 1, 1978;

"Variable Contract Contract" when used in this Part shall mean any policy or contract which provides for life insurance or annuity benefits that which vary according to the investment experience of any separate account or accounts maintained by the insurer as to such policy or contract, as provided for in Section 245.21 of the Illinois Insurance Code [215 ILCS 5/245.21] (41st Rev. Stat. 1984, ch. 73, par. 857-247).

"Variable Contract contract producer agent" when used in this Part shall mean a producer or agent who shall sell or offer to sell any

DEPARTMENT OF INSURANCE

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variable contract.

(Source: Amended at 25 Ill. Reg. 4208, effective March 7, 2007.)

Section 145i.30 Qualification of Insurance Companies to Issue Variable Contracts

a) Before any company shall deliver or issue for delivery variable contracts within this State it shall submit to the Director:

- 1) A general description of the kinds of variable contracts it intends to issue in this State,
- 2) If requested by the Director, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue variable contracts, and
- 3) If requested by the Director, biographical data with respect to officers and directors of the company on the forms prescribed in Standards-for-Formation-and-Management Information Reports (50 Ill. Adm. Code 915).

b) The Director may require additional information to be filed prior to authorizing a company to transact a variable contract business.

c) The Director shall notify the company, in writing, that it is authorized to transact a variable contract business in this State.

(Source: Amended at 25 Ill. Reg. 4208, effective March 7, 2007.)

Section 145i.40 Separate Accounts

A domestic company issuing variable contracts shall establish one or more separate accounts pursuant to Section 245.21 of the Illinois Insurance Code, subject to the following provisions of this Section:

- a) Reserves for:
 - 1) benefits guaranteed as to dollar amount and duration, and
 - 2) funds guaranteed as to principal amount or stated rate of interest, which may be maintained in a separate account if a portion of the assets of such separate account at least equal to such reserve liability is invested in accordance with the laws and regulations of this State governing the investments of life insurance companies. Such portion of the assets also shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company, if a variable contract includes incidental minimum guarantees as referred to in Section 145i.60(c)(3)(B) of this Part, this subsection (a)(2) paragraph shall apply only to the reserves for any excess of such minimum guarantees over the reserves for the benefits that would be payable under the contract if there were no such minimum guarantees.

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b) The company shall maintain in each separate account assets with a value at least equal to the reserves and other contract liabilities with respect to such account, except as may otherwise be approved by the Director.

c) All provisions of the Illinois Insurance Code and any administrative regulations ~~parts~~ issued thereunder applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee, board or other similar body. No officer or director of such company nor any member of the committee, board or body of a separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate account.

d) Any insurance company which issues or delivers variable contracts shall establish such administrative and accounting procedures as are necessary to properly identify the one or more separate accounts of the company derived from or in relation to contributions, premiums or considerations received by it under such contracts and which meet the standards specified in Section 133(1) of the Illinois Insurance Code [215 ILCS 5/133(1)] (~~411r-Rev-Stat-1991r-ch-73r-par-745r~~).

(Source: Amended at 25 Ill. Reg. 4208 effective July 5, 1991)

Section 1451.50 Filing of Contracts

a) The filing requirements applicable to variable contracts shall be those filing requirements otherwise applicable under existing statutes and regulations of this State with respect to individual and group life insurance and annuity contract form filings, to the extent appropriate as determined by the Director.

b) ~~Companies setting variable contracts shall file with the Department of Insurance a copy of any sales literature and effective prospectus which is applicable to variable contracts to be issued or delivered in Illinois.~~

bc) Individual contracts which provide for both fixed and variable benefits (which are specified at the time of the sale of such contracts) shall show, separately, the consideration to be paid for the fixed benefits and for the variable benefits.

cd) In the sale of an individual variable contract, made in correlation with the sale of either a fixed life insurance policy or a fixed annuity contract, there shall be a disclosure to the prospective purchaser which shows the consideration to be paid for the variable contract separately from the other charges. If any benefits or nonforfeiture values which may accrue prior to the death of the insured are involved in the presentation of such a correlated sale, the value of such fixed life insurance policy or such fixed annuity must be shown separately from any other values.

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d) Companies filing variable contracts shall include a certification by an officer of the company affirming that they will not sell the Product subsequent to the Director's approval unless the Securities and Exchange Commission has provided an effective date for any securities registration required by Federal law.

(Source: Amended at 25 Ill. Reg. 4208 effective July 5, 1991)

Section 1451.60 Contracts Providing for Variable Benefits

a) Illustrations of benefits payable under any variable contract shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided, however, that the form of illustration found in Appendix A of this Part may be utilized by companies in the sale of immediate variable annuities only.

b) No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this State unless it contains in substance the following provisions or provisions which in the opinion of the Director are more favorable to the holders of such contracts:

1) A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom;

2) A provision that, at any time within 1 one year from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract, and of all indebtedness ~~indebtedness~~ to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom;

3) A provision specifying the options available in the event of default in a periodic stipulated payment. Such options may include an option to surrender the contract for a cash value as determined by the contract, and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash, the amount of such paid-up annuity being determined by applying the value of the contract at the annuity commencement

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c) date in accordance with the terms of the contract.

c) No individual variable life insurance policy shall be delivered or issued for delivery in this State unless it contains in substance the following provisions or provisions which in the opinion of the Director are more favorable to the holders of such policies:

- 1) A provision that there shall be a period of grace of 30 days or of one month, within which payment of any premium after the first may be made, during which period of grace the policy shall continue in force, but if a claim arises under the policy during such period of grace before the overdue premiums or the deferred premiums of the current policy year, if any, are paid, the amount of such premiums, together with interest not in excess of 6% per annum, may be deducted from any amount payable under the policy in settlement. The policy may contain a statement of the basis for determining any variation in benefits that may occur as a result of the payment of premium during the period of grace.
- 2) A provision that the policy will be reinstated at any time within 3 years from the date of default, unless the cash surrender value has been paid or unless the period of extended insurance has expired, upon the application of the insured and the production of evidence of insurability, including good health, satisfactory to the insurer and the payment of an amount not exceeding the greater of:
 - A) all overdue premiums and the payment of any other indebtedness ~~indebtedness~~ to the insurer upon said policy with interest at a rate not exceeding 6% ~~per-centum~~ per annum compounded annually, or
 - B) 110% of the increase in cash surrender value resulting from reinstatement.

3) A) A provision for cash surrender values and paid-up insurance benefits available as non-forfeiture options under the policy in the event of default in a premium payment after premiums have been paid for a specified period.

A) If the policy does not include a table of figures for the options so available, the policy shall provide that the company will furnish at least once in each policy year a statement showing the cash value as of a date no earlier than the prior policy anniversary.

B) The method of computation of cash values and other non-forfeiture benefits, as described either in the policy or in a statement filed with the Commissioner, Director or Superintendent of the jurisdiction in which the policy is delivered, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation must be such that, if the net investment return credited to the contract at all times from the date of issue should be equal to the assumed investment increment factor if the contract provides for such a factor,

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or 3 1/2% if not, with premiums and benefits determined accordingly under the terms of the policy, the resulting cash values and other non-forfeiture benefits would be at least equal to the minimum values required by Section 229.2 of the Illinois Insurance Code [215 ILCS 5/229.2] ~~4111-Rev-7 Stat--1947--ch--73--par--841-27~~ for a fixed dollar policy with such premiums and benefits. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not to be limited to, a guarantee under a policy which provides for an assumed investment increment factor that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the contract at all times from the date of issue had been equal to such factor.

- d) Any variable annuity contract delivered or issued for delivery in this State shall stipulate the investment increment factors to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder, and may guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. In the case of an individual variable annuity contract under which the expense and mortality results may adversely affect the dollar amount of benefits, the expense and mortality factors shall be stipulated in the contract.

1) In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

- A) The annual net investment increment assumption shall not exceed 5%, except with the approval of the Director;
- B) To the extent that the level of benefits may be affected by future mortality results, the mortality factor shall be determined from the 1983 Table "A" ~~Annuity-Mortality-Table for-1949-ultimate~~ or any modification of that table not providing for a lower life-expectancy at any age, or, if approved by the Director, from another table.

2) "Expense," as used in subsection (d) of this Section ~~paragraph (4)-of-this-Section~~, may exclude some or all taxes, as stipulated in the contract.

- e) Any individual variable life insurance policy delivered or issued for delivery in this State shall stipulate the investment increment factor to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts.

f) The reverse liability for variable contracts shall be established pursuant to the requirements of Section 223 of the Illinois Insurance Code [215 ILCS 5/223] ~~4111-Rev-Stat--1961--ch--73--par--435~~ in

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accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees, provided such actuarial procedures meet the approval of the Director.

(Source: Amended at 25 Ill. Reg. 4208, effective MMK 3-20-00)

Section 1451.80 Foreign or Alien Companies

If the law or regulation in the place of domicile of a foreign or alien company provides a degree of protection to the policyholder and the public which is substantially equal to that provided by applicable provisions of the Illinois Insurance Code and this Part, the Director, to the extent deemed appropriate by him--in-his-discretion, may consider compliance with such law or regulation as compliance with applicable provisions of the Illinois Insurance Code and this Part. The state of entry of an alien company shall be deemed its place of domicile for the purposes of this Part.

(Source: Amended at 25 Ill. Reg. 4208, effective MMK 3-20-00)

Section 1451.90 Licensing of Producers for Variable Contracts Examination-of Agents

a) No producer agent shall be eligible to sell or offer for sale a variable contract unless, prior to making any solicitation or sale of such a contract, the producer he also is licensed as a variable contract producer agent. No agent of a fraternal benefit company, which operates on a legal reserve basis, shall be eligible to be licensed as a variable contract producer agent unless the producer he also is licensed as a life insurance producer agent--broker-or-solicitor.

b) Any producer agent who participates only in the sale or offering for sale of variable contracts that are not registered under the Federal Securities Act of 1933 (15 USC 681e-77(a) et seq.) need not be licensed as a variable contract producer agent.

c) Any producer agent applying for a license as a variable contract producer agent shall do so by filing with this Department proof of passing the NASB Series 6 or 7 examination or any superseding examination that grants authority to sell variable contracts. Application Form 620H along with supporting documents as--required--in the Application Form.

e) The licensing as--a variable--contract agent--complying with--Section 1451.90(b)--shall not become effective--until--such agent--shall--have satisfactorily passed both a written:

2) securities examination and variable contract examination--The variable contract examination shall be composed of at least 15 questions, but not more than 50

questions--concerning the history, purpose, regulation--and--sale of variable contracts:

d) The variable contract examination will be given in such places and at such times as the Director shall from time to time designate. Upon application for license as a variable contract agent, the applicant shall be notified of the date of the next examination.

e) Any applicant for licensing as a variable contract agent shall be required to present evidence that he:

i) has previously passed a securities examination as defined in Section 1451.20; or

ii) is currently registered with the Federal Securities and Exchange Commission as a broker-dealer or is currently associated with a broker-dealer and has met qualification requirements with respect to such association;

f) Every applicant applying for license as a variable contract agent shall satisfactorily complete the variable contract examination required by Section 1451.90(c) with a grade of at least seventy percent (70%) or shall present evidence of successful completion of a variable contract examination given under the supervision of an insurance department of any State or Territory of the United States;

g) Any applicant who fails to pass the variable contract examination required by Section 1451.90(c) may take such examination again 20 days after the first and any subsequent examinations;

h) Every application for a license as a variable contract agent shall be accompanied by an examination fee of \$15. A fee of \$10 will be charged for each re-examination administered to an applicant;

i) Except as modified by this Part, the Rules of this Department governing the licensing of life insurance agents--including examinations therefor--shall apply thereto;

j) Results of the examination administered pursuant to Section 1451.90(c) will be reported by this Department to the applicant's company--in any other State--insurance department requesting confirmation of the examination grade--upon request of such Department--or--upon request of the applicant or his company.

k) Any person licensed in this State as a variable contract producer agent shall immediately report to the Director:

- 1) any suspension or revocation of the his variable contract producer's agent's license or life insurance producer's agent's license in any other State or Territory of the United States,
- 2) the imposition of any disciplinary sanction (including suspension or expulsion from membership, suspension or revocation of or denial of registration) imposed upon him by any national securities exchange, or national securities association, or any federal, or state or territorial agency with jurisdiction over securities or variable contracts,
- 3) any judgment or injunction entered against the producer him on the basis of conduct deemed to have involved fraud, deceit,

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misrepresentation, or violation of any insurance or securities law of regulation.

e) The Director may reject any application or suspend or revoke or refuse to renew any variable contract producer's agent's license upon any ground that would bar such applicant or such producer agent from being licensed to sell life insurance contracts in this State. The rules governing any proceeding relating to the suspension or revocation of a life insurance producer's agent's license shall also govern any proceeding for suspension or revocation of a variable contract producer's agent's license.

f) Renewal of a variable contract producer's agent's license shall follow the same procedure established for renewal of a producer's agent's license to sell life insurance contracts in this State.

(Source: Amended at 25 Ill. Reg. 4208 effective

July 5, 1991)

Section 1451.100 Disclosure

a) The following information shall be furnished to an applicant for a contract of variable life insurance prior to execution of the application:

- 1) A summary description of the insurance company and its principal activities.
- 2) A summary explanation in non-technical terms of the principal variable features of the contract and of the manner in which any variable benefits reflect the investment experience of a separate account.
- 3) A brief description of the investment policy for the separate account with respect to such contract.
- 4) A list of investments in the separate account as of a date not earlier than the end of the last year for which an annual statement has been filed with the Director of the state of domicile.
- 5) Summary financial statements of the insurance company and the separate account based upon the last annual statement filed with such Director, except that for a period of 1 four months after the filing of any annual statement the summary required by this subsection (a)(5) hereby may be based upon the annual statement, immediately preceding such last annual statement, filed with the such Director.
- b) The insurance company may include such additional information as it deems appropriate.
- c) A copy of the statement containing the foregoing information required by subsection (a) shall be filed with the such Director prior to any use of the statement thereof and shall be subject to disapproval if found to be inaccurate or misleading.

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(Source: Amended at 25 Ill. Reg. 4208 effective

July 5, 1991)

LEGISLATIVE INFORMATION SYSTEM

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Public Information, Rulemaking And Organization

2) Code Citation: 2 Ill. Adm. Code 150

3) Section Numbers: Adopted Action:
150.220 Amendment
APPENDIX A

4) Statutory Authority: The Legislative Information System Act [25 ILCS 145] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

5) Effective Date of Rulemaking: MAR - 5 7001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: November 17, 2000; 24 Ill. Reg. 16887

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: One word was capitalized.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This is a revision of the LIS protocols pertaining to access to LIS material.

16) Information and questions regarding these adopted amendments shall be directed to:

Jack Hatcher
Legislative Information System
705 Stratton Building
Springfield, IL 62706
217/782-3944

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NOTICE OF ADOPTED AMENDMENTS

The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE A: LEGISLATIVE AGENCIES
CHAPTER V: LEGISLATIVE INFORMATION SYSTEM

PART 150

PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC INFORMATION

Section
150.10 Access to Legislative Information System Information

SUBPART B: PROCEDURES FOR ENACTMENT OF RULES

Section
150.105 Introduction
150.110 Initiation
150.120 Enactment
150.130 Application
150.140 Emergency Rules

SUBPART C: LEGISLATIVE INFORMATION SYSTEM ORGANIZATION

Section
150.205 Introduction
150.210 Organization Chart
150.220 Description of Agency Organization

APPENDIX A Organization Chart

AUTHORITY: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 6 of the Legislative Information System Act [25 ILCS 145/6].

SOURCE: Organization rules adopted at 2 Ill. Reg. 38, p. 60, effective September 22, 1978; amended at 3 Ill. Reg. 40, p. 136, effective October 5, 1979; amended at 5 Ill. Reg. 3457, effective March 20, 1981; rulemaking rules adopted at 2 Ill. Reg. 38, p. 71, effective September 22, 1978; rules repealed, new rules adopted and codified at 7 Ill. Reg. 16916, effective December 29, 1983; amended at 14 Ill. Reg. 3049, effective February 14, 1990; amended at 25 Ill. Reg. 4221, effective 4/1/01.

SUBPART C: LEGISLATIVE INFORMATION SYSTEM ORGANIZATION

Section 150.220 Description of Agency Organization

- a) Legislative Information System: The "System" was created by Public Act 80-683 [25 ILCS 145] ~~4431-Rev-Stat-1987-ch-63r-pars-42-ii-et~~

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~~sec-7~~ which provides for the appointment of the System membership and the terms of office. The main responsibility of the System is the establishment of policy and procedures and approval of projects undertaken by the System.

- b) Advisory Committee: The Advisory Committee was created by Public Act 80-683 [25 ILCS 145] ~~4431-Rev-Stat-1987-ch-63r-pars-42-ii-et~~ ~~sec-7~~ for the purpose of making recommendations for conceptualization, design and implementation of applications considered or adopted by the System.

- c) Executive Director and Deputy Director: The Executive Director and Deputy Director are responsible for implementing the policies and procedures established by the System, implementing projects approved by the System and supervising the daily operations of the agency.

- d) Administration: Responsible for all the fiscal and personnel operations of the agency. This section also works closely with other agencies in the General Assembly and other agencies to coordinate accounting systems and reporting. Administration is also responsible for the receipts and disbursements of the Equipment Revolving Fund.

- e) Programming Services: Monitors the various programs used in the Bill Status System, Calendars, Journals, Digests, and the accounting system. Using feedback from users of these systems, this area makes adjustments and programs to improve productivity. Programming Services is also involved in the development of new software applications to assist the General Assembly and related agencies.

- f) Support Services: Provides customer support functions to users of the System. This section answers phone inquiries regarding bill status and trains current users on the dial-up system. This area is responsible for new client development. Its responsibilities include issuing contracts and training new users.

- g) Systems Services: Supports the operating system, back-end software, and all the hardware that supports all other functions of the agency. This area ensures that the mainframe, LAN, and other related equipment function properly. Computer Operations, a subdivision of Systems Services, is responsible for monitoring of the mainframe and other computer equipment and is the messenger service for the agency. This area routes various jobs to printers or output devices.

- h) Text Services: Develops and provides support for the following applications: Bill Drafting, Statutory Retrieval, Statute Update, Journal Writing, Enrolling and Engrossing, Debate Transcription, Administrative Code, Illinois Register, and Staff Uses.

- d) Systems Programming: ~~this section is responsible for maintaining the computer operating systems and the preparation of evaluations regarding the impact on the system of present and proposed applications.~~

- e) Applications Programming: ~~this section is responsible for maintaining the current application programs, developing new applications and evaluating proposed applications.~~

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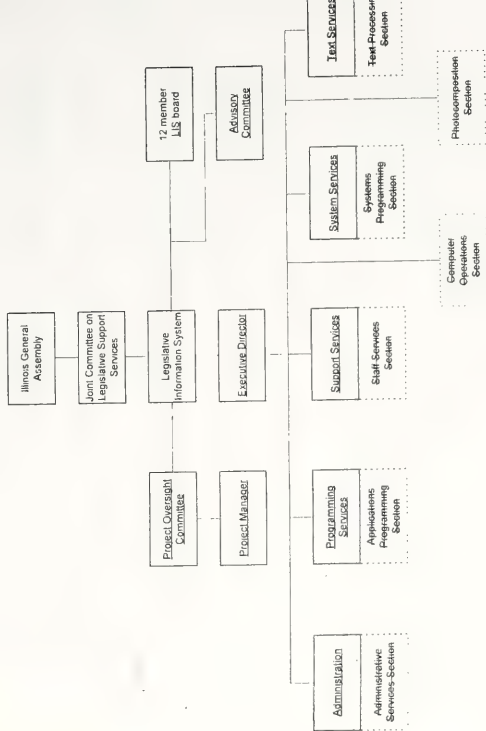
- f) Administrative-Services-----this-section-is-responsible-for---the maintenance-of---all---personnel---equipment-and-financial-records; the processing-of---all---personnel---actions---vouchers---obligations; requisitions,---etc---; providing secretarial-and-clerical-services; and receptionist-services;
- g) Staff-Services-----this-section-is-responsible-for-the-interface between-bis-and-the-end-user; for-the-evaluation-of-proposed application-program-modifications; for-the-training-of-users-on-the various-applications-and-for-providing-assistance-to-users---as required;
- h) Photocomposition-Services-----this-section-is-responsible-for-the scheduling-development-and-implementation-of---photocomposition applications-and-the-production-of-camera-ready-copy-for-delivery-to the-printer;
- i) Computer-Operations-----this-section-is-responsible-for-the-physical operations-of-the-computer-facility-and-for-the-scheduling, reproduction-and-distribution-of-reports-requested-by-users;
- j) Text-Processing-----this-section-is-responsible-for-the-interface between-bis-and-users-of-the-text-processing-system; the training-of users; monitoring-quality-control---and---providing-programming assistance;

(Source: Amended at 25 Ill. Reg. 4221-3, effective April - 5 2001)

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NOTICE OF ADOPTED AMENDMENT(S)

Section 150. APPENDIX A Organization Chart



(Source: Amended at 25 Ill. Reg. 4221-3, effective Mar - 5 2001)

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NOTICE OF ADOPTED REPEALERS

1) Heading of the Part: purchasing

2) Code Citation: 44 Ill. Adm. Code 575

3) <u>Section Numbers:</u>	<u>Adopted Action:</u>
575-5	Repeal
575-10	Repeal
575-20	Repeal
575-30	Repeal
575-40	Repeal

4) Statutory Authority: The Legislative Information System Act (25 ILCS 145) and Section 1-30 of the Illinois Procurement Code (30 ILCS 500/1-30).

5) Effective Date of Rulemaking: March 5, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: November 17, 2000; 24 Ill. Reg. 16894

10) Has JCAR issued a Statement of Objections to this repealer? No

11) Difference(s) between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.

13) Will this rulemaking replace an emergency rulemaking currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: LIS is repealing its purchasing rules adopted under the old Purchasing Act that has now been supplanted by the Illinois Procurement Code.

16) Information and questions regarding these adopted repealers shall be directed to:

Jack Hatcher
Legislative Information System

LEGISLATIVE INFORMATION SYSTEM

NOTICE OF ADOPTED REPEALERS

705 Stratton
Springfield IL 62706
217/782-3944

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Professional Boxing and Wrestling Act

2) Code Citation: 68 Ill. Adm. Code 1370

3) Section Numbers: Adopted Action:

1370.10	Repealed
1370.15	New Section
1370.20	Amendment
1370.25	New Section
1370.26	New Section
1370.27	New Section
1370.28	New Section
1370.29	New Section
1370.30	Amendment
1370.40	Amendment
1370.50	Repealed
1370.60	Repealed
1370.70	Repealed
1370.80	Amendment
1370.90	Amendment
1370.100	Amendment
1370.105	New Section
1370.110	Amendment
1370.120	Amendment
1370.140	New Section
1370.160	New Section
1370.200	Amendment
1370.205	New Section
1370.206	New Section
1370.207	New Section
1370.210	Amendment
1370.220	Amendment
1370.230	Amendment
1370.260	Repealed
1370.270	Repealed
1370.290	Repealed
1370.300	Amendment
1370.310	Amendment
1370.320	Repealed
1370.330	Repealed
1370.340	Repealed
1370.350	Amendment
1370.360	Amendment
1370.370	Amendment

4) Statutory Authority: Professional Boxing and Wrestling Act [225 ILCS 105]

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

5) Effective Date of Amendments: March 13, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: November 17, 2000, at 24 Ill. Reg. 16916

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: No substantive differences.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: PA 91-408 made numerous revisions in the Professional Boxing and Wrestling Act, clearly delineating who must be licensed or registered by the Department, including contestants, seconds, timekeepers, managers, matchmakers, judges, and referees. At the same time, the rules for administration of the Act have not been updated for some time. This proposed rulemaking is a complete update, overhaul and restructuring of the rules to reflect current practices and to conform with the statutes. Section 1370.40 revises and expands the number of weight divisions for boxers, while Section 1370.20 (a) includes requiring a federal identification card for all boxers. Provisions are also made for women seeking licensure to box.

16) Information and questions regarding these adopted amendments shall be directed to:

Department of Professional Regulation
Attention: Jean Courtney
320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0813
Fax: 217/782-7645

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 66: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1370

PROFESSIONAL BOXING AND WRESTLING ACT

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- A) 1) A recent photograph or photo identification (e.g., driver's license, passport); ~~two recent photographs;~~
- B) Proof of age (driver's license or copy of birth certificate);
- C) 2) Social Security Number or similar identification (i.e., green card, visa); ~~A copy of the results of a urine-of-metabolite blood test;~~
- D) Two years of amateur boxing experience for amateurs and the total number of bouts and a breakdown of wins and losses. The applicant shall have a minimum of 20 bouts of demonstrate exceptional fighting ability as approved by the Department;
- E) 3) The required fee set forth in Section 1370.305 of this Part; and
- F) 4) Proof of completion of a physical examination by a physician within 90 days after application for licensure. The physician shall conduct such examinations and tests as necessary to attest to the fitness of the applicant to engage in boxing contests, which shall include, but not be limited to:
- i) E.K.G.;
 - ii) Chest x-ray;
 - iii) E.E.G.;
 - iv) Urine test indicating no non-prescribed drugs; and
 - v) Blood tests verifying no sexually transmitted diseases. Boxers must be free of the HIV virus to be licensed in Illinois.

For a female boxer, in addition to the requirements of subsection (a)(1)(F)(i)-(v), the physical examination shall include a pelvic, abdominal and breast exam noting any masses. The boxer shall also provide to the physician prior to the prefight exam the results of a U.C.G. (pregnancy) test taken within 48 hours before any event.

- 2) Boxers licensed in other jurisdictions. Application for licensure shall be completed on forms supplied by the Department and shall include:

- A) Federal identification card and proof of licensure in another jurisdiction;
- B) Proof of completion of a physical examination by a physician. The physician shall conduct such examinations and tests as necessary to attest to the fitness of the applicant to engage in boxing contests. A female boxer shall also provide to the physician prior to the prefight exam the results of a U.C.G. (pregnancy) test taken within 24 hours before any event;
- C) Proof of current HIV test. Boxers must be free of the HIV virus to be licensed in Illinois;
- D) Proof of age (driver's license or copy of birth

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- E) Social security number or similar identification (i.e., green card, visa); and
- F) The required fee set forth in Section 1370.305 of this Part.
- 3) Applicants over age 19 who have not competed in a contest within the last 24 months may be required to appear before the Board to determine their fitness to participate in a contest.
- b) Other Applicants for licensure. Applications for licensure as boxing promoters, judges, trainers (secondary managers), referees, and timekeepers shall be completed on forms supplied by the Department. The completed application shall include:
- 1) Two recent photographs;
 - 2) Evidence of good moral character through information relating to his other business and financial interests; Such evidence shall consist of, but not be limited to, whether there is a conflict of interest and whether the applicant has satisfactory business expertise;
 - 3) Proof that the applicant has had at least one year of experience in the same area in amateur boxing contests or has been licensed in another state for one year; and
 - 4) The required fee;
 - 5) For promoters:
 - A) Proof of the filing of the bond required by Section 9-1(f) of the Act; and
 - B) A financial statement showing sufficient liquid assets to meet the financial obligations for anticipated events;
 - 6) For managers and trainers/seconds: A listing of all contestants for which he will act in his professional capacity;
- b) Seconds. Any person assisting or working the corner of any boxer must be licensed. Applications for licensure shall be completed on forms provided by the Department and shall include:
- 1) A recent photograph;
 - 2) Proof of a current license in another jurisdiction. Applicants not licensed elsewhere may be required to appear for an interview with the Board;
 - 3) Proof of good moral character, which includes notification of any felony conviction that might have a direct relationship to duties as a second or any discipline in another jurisdiction in which the applicant is licensed; and
 - 4) The required fee set forth in Section 1370.305 of this Part.
- c) Referee, Judge or Timekeeper. Applications for licensure as a referee, judge or timekeeper shall be completed on forms provided by the Department and shall include:
- 1) A recent photograph;
 - 2) Proof of a medical examination from a physician licensed under the Medical Practice Act;
 - 3) Proof of experience as a referee, judge or timekeeper for 5 of the last 7 years in amateur boxing, 3 of the last 5 years in

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Golden Glove Tournaments, 2 of the last 3 years in national tournaments or proof of licensure in another jurisdiction;

- 4) Proof of good moral character, which includes notification of any felony conviction that might have a direct relationship to duties as a referee, judge or timekeeper or any disciplining in another jurisdiction in which the applicant is licensed; and

5) The required fee set forth in Section 1370.305 of this Part.

- d) Manager and Matchmaker. Applications for licensure as a manager or matchmaker shall be completed on forms provided by the Department and shall include:
 - 1) A recent photograph;

- 2) Proof of good moral character, which includes notification of any felony conviction that might have a direct relationship to duties as a manager or any disciplining in another jurisdiction in which the applicant is licensed; and

3) The required fee set forth in Section 1370.305 of this Part.

- e) When the accuracy of any submitted documentation or the relevance or sufficiency of the experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:
 - 1) Provide such information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 25 Ill. Reg. 4229, effective July 1, 1991)

Section 1370.25 Application for a Permit to Conduct a Boxing Contest

- a) An application for a permit to conduct a boxing contest shall be completed on forms supplied by the Department at least 20 days prior to the scheduled event and shall include:
 - 1) The names, addresses, phone numbers and fax numbers of the promoter and matchmaker;

- 2) The time, date and location of the event;
- 3) The seating capacity of the location where the event is to be held;

- 4) A copy of the lease or proof of ownership of the building where the event is to be held;

- 5) The admission charge or charges to be made;

- 6) A letter from the security agency licensed pursuant to the Private Detective, Private Alarm, Private Security and Locksmith Act of 1983 (225 ILCS 416) contracted to provide security for the show stating the number of guards they intend to use at that location on that date or a letter from the facility indicating in-house security will be provided on the date of the show;

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- 7) The name, address and phone number of the nearest hospital with a neurological unit; and
- 8) The fee required by Section 1370.305 of this Part.

- b) Within 10 days prior to the event, the promoter will be required to submit the following:
 - 1) The amount of compensation to be paid to each participant;

- 2) The names of the contestants and current information from Fight Fax or its successor;

- 3) Proof of insurance as required by Section 8 of the Act:
 - A) Boxer's life insurance: \$10,000 minimum;
 - B) Boxer's medical insurance: \$10,000 minimum;
 - C) Public liability insurance: \$500,000 minimum; and
 - D) Property damage insurance: \$25,000 minimum.

- c) Within 7 days prior to the event, the promoter shall submit to the Department a notarized printer's manifest for the amount and price of tickets printed for boxing promotions (if over 17,000 capacity, a printer manifest is not necessary). General admission tickets shall be consecutively numbered. When available, an electronic printout is to be given to a Department representative on the day of the show. In addition the promoter shall submit the following contracts:
 - 1) Three copies of the promoter and boxer contract for the main event shall be signed by the promoter, boxer and manager, if applicable, and filed with the Department a minimum of 5 days before the scheduled show.

- 2) Three copies of the contracts for the preliminary bouts shall be signed by the promoter, boxer and manager, if applicable, and filed with the Department a minimum of one day in advance of the scheduled show.

- e) Within 24 hours prior to the event, the promoter shall provide to the Department the amount of the purse to be paid for the event. It shall be the responsibility of the promoter or his/her designees (ringman/glovesman) to provide the following:
 - 1) A ring that meets requirements set forth in Section 1370.30;

- 2) Boxing gloves, which shall not be less than 8 ounces or more than 10 ounces in weight. Women boxers shall not wear gloves that weigh less than 12 ounces. Webbed or thumbless gloves are mandatory and must be approved by a Department representative. New gloves must be used for the main event. The promoter or glovesman shall submit a form provided by the Department stating that he/she will provide new laces for the gloves and glove form when deemed necessary by a Department representative;

- 3) The promoter shall provide for rental or sale a foul-proof cup, trunks (3 pairs of small, medium and large), clean white towels, gauze (2 inch for hand wraps), shoe laces, a professional mouthpiece and medical tape;

- 4) Clean dressing room facilities, including washroom and shower for contestants and ring officials. Separate facilities shall be provided for male and female boxers;

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- 5) Three small platforms or elevated chairs at ringside for the boxing judges; and 4 quart-sized bottles for use by the boxers;
 - 6) At least 4 buckets and 4 quart-sized bottles for use by the boxers;
 - 7) A stretcher, oxygen and a gong or bell at ringside;
 - 8) Notification to the boxers that a foul-proof cup, professional mouth piece and 2 pairs of different colored trunks are compulsory;
 - 9) Notification to boxers of the weigh-in time and location. The promoter must notify boxers when to report to the dressing room. A department representative will determine the time to report to each event;
 - 10) Notification to the boxers that regulation boxing shoes shall be of soft material and not be fitted with spikes, cleats, hard soles or hard heels; and
 - 11) Payment to the referee, announcer, licensed physician, timekeeper, paramedics and judges. The promoter shall give compensation, in cash, certified checks or money orders, to the Department at or before the weigh in. The Department employee will pay the officials and return a receipt to the promoter.
- g) The Department shall be responsible for providing the physician and 2 paramedics at ringside.

(Source: Added at 25 Ill. Reg. 4229 effective March 1, 1991)

Section 1370.26 Seconds

- a) Three seconds per boxer is the normal number allowed at a contest - one on the apron, one in the ring and one on the arena floor. A minimum of 2 seconds per boxer may be allowed, one on the apron and one in the ring. If requested, a maximum of 5 seconds per boxer may be allowed.
- b) Seconds shall comply with the following:
 - 1) No more than 3 seconds or fewer than 2 seconds will be allowed in a corner, unless prior approval is granted by the Department.
 - 2) No yelling or coaching during a round. Seconds must remain seated during the round.
 - 3) Seconds may not enter the ring until the gong sounds the ending of the round. Seconds must leave the ring when the timekeeper blows the whistle 10 seconds before the beginning of the next round.
 - 4) Seconds must remove any obstruction such as buckets, stools, towels and other materials from the corner of the ring at the timekeeper's whistle.
 - 5) Seconds should have clean white towels, sterile gauze pads, sterile cotton Q-tips, Vaseline, chopped ice in buckets, water bottles sufficiently taped and a substance that is approved by

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- 6) the physician to stop the bleeding from cuts. No lion solution shall be used (i.e., Monsel's).
- 7) The chief second shall be responsible for the conduct of his/her assistant seconds during the contest.
- 8) Good sportsmanship is expected at all times.
- 9) Seconds must wear disposable gloves while working in a boxer's corner.
- c) Any violation of the requirements in subsection (b) of this Section may result in:
 - 1) A deduction of points from the second's boxer;
 - 2) Suspension of the second; and/or
 - 3) Ejection from the corner.
- d) Seconds must adhere to the following for wrapping hands:
 - 1) In all weight classes, hand bandages shall be restricted to 10 yards of soft gauze bandage not more than 2 inches in width, held in place by not more than 6 feet of surgeon's tape. one-half inch in width for each hand. Any deviation must have the approval of the Department official.
 - 2) The binding of surgeon's tape must not be applied within one-half inch of the knuckles of the contestant's hand.
 - 3) Completed wrapped hands must be approved by a Department official before and after the gloves are put on.

(Source: Added at 25 Ill. Reg. 4229 effective March 1, 1991)

Section 1370.27 Timekeepers

- a) There shall be a timekeeper, licensed by the State of Illinois, responsible for keeping track of time during a contest.
- b) Timekeepers shall be equipped with a whistle, a knockdown watch, a 3-minute topwatch and a back-up gong that has been approved by the Department.
- c) Timekeepers must adhere to the following:
 - 1) The timekeeper shall use his/her whistle only to indicate that 10 seconds remain before the beginning of the next round.
 - 2) The timekeeper shall indicate the commencing and conclusion of each round by sounding the gong or bell.
 - 3) In the event of a knockdown, the timekeeper shall begin the count. The timekeeper's count is picked up by the referee and becomes the official count.

(Source: Added at 25 Ill. Reg. 4229 effective March 1, 1991)

Section 1370.28 Referees

- a) Referees shall be licensed by the State of Illinois and shall be

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selected and assigned to boxing contests by the Department.

- b) Referees shall adhere to the following:
- 1) When a referee has cause to suspect a violation, he/she shall file a report with the Department describing the event.
 - 2) The referee must report for duty at least one hour before the scheduled starting time of the show and be examined by the physician or paramedics.
 - 3) Referees must first report to Department representatives, then to ringside, and shall avoid conversation except with Department officials.
 - 4) At the beginning of the contest, the referee shall call contestants to the center of the ring. Contestants shall be accompanied by their chief second only. After receiving instructions, the contestants shall shake hands and retire to their corners. They shall not shake hands again until the beginning of the last round.
 - 5) The contestants, the physician and the referee shall be the only persons allowed in the ring during the progress of a round.
 - 6) Referees shall wear disposable gloves when refereeing a bout.
 - 7) The referee shall be the chief official of every contest and shall remain in the ring during the entire time of the contest.
 - 8) The referee shall insure that the boxer stays in his/her corner between rounds.
 - 9) In the event a bout terminates before its scheduled number of rounds, the referee shall inform the judges and the Department of the exact duration of the bout.
 - 10) In the event of a knockout or technical knockout, the boxer will be suspended for a minimum of 45 days.
 - 11) In the event a boxer is disqualified for any reason, the boxer will be suspended for a minimum of 45 days.

(Source: Added 4/11/14 at 25 Ill. Reg. 4229, effective 4/11/14)

Section 1370.29 Boxers

- a) Hair must be secured in a manner that it will not interfere with the vision or safety of either contestant.
- b) No cosmetics or jewelry shall be worn during a boxing event.
- c) Each contestant shall have available for the contest 2 uniforms of contrasting colors, consisting of a body shirt, athletic jersey and shorts. No leotards or other such costume is permissible.
- d) A contestant shall not wear corrective or contact lenses in the ring.
- e) Custom-fitted mouthpieces must be worn.
- f) Contests between male and female boxers are prohibited in Illinois.
- g) A breast protector is mandatory for female boxers, with both contestants wearing the same type.
- h) Women's boxing matches shall have 2-minute rounds.

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(Source: Added at 25 Ill. Reg. 4229, effective 4/11/14)

Section 1370.30 Structure of Ring

- a) Size of Ring
 - 1) The ring for a boxing contest shall be no less than 16 feet square, or larger than 24 feet square. The ring floor shall be constructed of at least a one-inch base of building board; it shall be padded with at least a one-inch layer of ensolite, foam rubber or their equivalent. There must be a top covering of canvas, duck or similar material tightly stretched and placed to the ring platform.
 - 2) The ring shall have four posts not less than 3 inches in diameter that extend from the floor of the ring to a height of no less than 48 inches or more than 58 inches. The posts shall be securely anchored and adequately padded.
 - b) The ring shall have 4 a minimum of three ropes, each not less than one inch in diameter. The ropes shall be padded with a soft material.
 - c) The floor of the ring shall not be more than 4 feet above the floor on which it is standing, and shall be supplied with steps for the entry and departure of contestants and officials, as the Department may require.
 - d) The platform of the ring must extend beyond the ropes for a distance of at least 2 feet one-foot.
 - e) The ring shall be kept clear of obstructions.

(Source: Amended at 25 Ill. Reg. 4229, effective 4/11/14)

Section 1370.40 Classes and Weights of Boxers

- a) In accordance with generally accepted boxing practices, boxers shall be classified under the following classifications: either--under--the classifications--listed--in--subsection--(a)(1) or--(a)(2)--below.

1) Light Flyweight	not over 108 pounds
2) Flyweight	over 108 to 112 pounds
3) Bantamweight	over 112 to 118 pounds
4) Super Bantamweight	over 118 to 122 pounds
5) Featherweight	over 122 to 126 pounds
6) Super Featherweight	over 126 to 130 pounds
7) Lightweight	over 130 to 135 pounds
8) Light welterweight	over 135 to 140 pounds
9) Welterweight	over 140 to 147 pounds
10) Light Middleweight	over 147 to 154 pounds
11) Middleweight	over 154 to 160 pounds
12) Super Middleweight	over 160 to 168 pounds

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- | | over 168 to 175 pounds | over 175 to 195 pounds | over 195 pounds |
|------------------------------|------------------------|------------------------|-----------------|
| 13) <u>Light Heavyweight</u> | | | |
| 11) <u>Cruiserweight</u> | | | |
| 2) <u>Heavyweight</u> | | | |

- b) Any weight division change must be approved by the Department.

- ## 4.4. Addition- β -elimination

- A1 - 125 lbs or under
 B1 - 126 to 135 pounds
 C1 - 136 to 145 pounds
 D1 - 146 to 155 pounds
 E1 - 156 to 165 pounds
 F1 - 166 to 175 pounds
 G1 - 176 to 185 pounds
 H1 - 186 to 195 pounds
 I1 - 196 to 205 pounds
 J1 - 206 to 215 pounds
 K1 - 216 to 225 pounds
 L1 - 226 to 235 pounds
 M1 - 236 to 245 pounds
 N1 - 246 to 255 pounds
 O1 - 256 to 265 pounds
 P1 - 266 to 275 pounds
 Q1 - 276 to 285 pounds
 R1 - 286 to 295 pounds
 S1 - 296 to 305 pounds
 T1 - 306 to 315 pounds
 U1 - 316 to 325 pounds
 V1 - 326 to 335 pounds
 W1 - 336 to 345 pounds
 X1 - 346 to 355 pounds
 Y1 - 356 to 365 pounds
 Z1 - 366 to 375 pounds
 AA1 - 376 to 385 pounds
 BB1 - 386 to 395 pounds
 CC1 - 396 to 405 pounds
 DD1 - 406 to 415 pounds
 EE1 - 416 to 425 pounds
 FF1 - 426 to 435 pounds
 GG1 - 436 to 445 pounds
 HH1 - 446 to 455 pounds
 II1 - 456 to 465 pounds
 JJ1 - 466 to 475 pounds
 KK1 - 476 to 485 pounds
 LL1 - 486 to 495 pounds
 MM1 - 496 to 505 pounds
 NN1 - 506 to 515 pounds
 OO1 - 516 to 525 pounds
 PP1 - 526 to 535 pounds
 QQ1 - 536 to 545 pounds
 RR1 - 546 to 555 pounds
 SS1 - 556 to 565 pounds
 TT1 - 566 to 575 pounds
 UU1 - 576 to 585 pounds
 VV1 - 586 to 595 pounds
 WW1 - 596 to 605 pounds
 XX1 - 606 to 615 pounds
 YY1 - 616 to 625 pounds
 ZZ1 - 626 to 635 pounds
 AAA1 - 636 to 645 pounds
 BBB1 - 646 to 655 pounds
 CCC1 - 656 to 665 pounds
 DDD1 - 666 to 675 pounds
 EEE1 - 676 to 685 pounds
 FFF1 - 686 to 695 pounds
 GGG1 - 696 to 705 pounds
 HHH1 - 706 to 715 pounds
 III1 - 716 to 725 pounds
 JJJ1 - 726 to 735 pounds
 KKK1 - 736 to 745 pounds
 LLL1 - 746 to 755 pounds
 MMM1 - 756 to 765 pounds
 NNN1 - 766 to 775 pounds
 OOO1 - 776 to 785 pounds
 PPP1 - 786 to 795 pounds
 QQQ1 - 796 to 805 pounds
 RRR1 - 806 to 815 pounds
 SSS1 - 816 to 825 pounds
 TTT1 - 826 to 835 pounds
 UUU1 - 836 to 845 pounds
 VVV1 - 846 to 855 pounds
 WWW1 - 856 to 865 pounds
 XXX1 - 866 to 875 pounds
 YYY1 - 876 to 885 pounds
 ZZZ1 - 886 to 895 pounds
 AAAA1 - 896 to 905 pounds
 BBBB1 - 906 to 915 pounds
 CCCC1 - 916 to 925 pounds
 DDDD1 - 926 to 935 pounds
 EEEE1 - 936 to 945 pounds
 FFFF1 - 946 to 955 pounds
 GGGG1 - 956 to 965 pounds
 HHHH1 - 966 to 975 pounds
 IIII1 - 976 to 985 pounds
 JJJJ1 - 986 to 995 pounds
 KKKK1 - 996 to 1005 pounds
 LLLL1 - 1006 to 1015 pounds
 MMMM1 - 1016 to 1025 pounds
 NNNN1 - 1026 to 1035 pounds
 OOOO1 - 1036 to 1045 pounds
 PPPP1 - 1046 to 1055 pounds
 QQQQ1 - 1056 to 1065 pounds
 RRRR1 - 1066 to 1075 pounds
 SSSS1 - 1076 to 1085 pounds
 TTTT1 - 1086 to 1095 pounds
 UUUU1 - 1096 to 1105 pounds
 VVVV1 - 1106 to 1115 pounds
 WWWW1 - 1116 to 1125 pounds
 XXXX1 - 1126 to 1135 pounds
 YYYY1 - 1136 to 1145 pounds
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 E1111 - 1196 to 1205 pounds
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 T1111 - 1346 to 1355 pounds
 U1111 - 1356 to 1365 pounds
 V1111 - 1366 to 1375 pounds
 W1111 - 1376 to 1385 pounds
 X1111 - 1386 to 1395 pounds
 Y1111 - 1396 to 1405 pounds
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 B11111 - 1426 to 1435 pounds
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 I11111 - 1496 to 1505 pounds
 J11111 - 1506 to 1515 pounds
 K11111 - 1516 to 1525 pounds
 L11111 - 1526 to 1535 pounds
 M11111 - 1536 to 1545 pounds
 N11111 - 1546 to 1555 pounds
 O11111 - 1556 to 1565 pounds
 P11111 - 1566 to 1575 pounds
 Q11111 - 1576 to 1585 pounds
 R11111 - 1586 to 1595 pounds
 S11111 - 1596 to 1605 pounds
 T11111 - 1606 to 1615 pounds
 U11111 - 1616 to 1625 pounds
 V11111 - 1626 to 1635 pounds
 W11111 - 1636 to 1645 pounds
 X11111 - 1646 to 1655 pounds
 Y11111 - 1656 to 1665 pounds
 Z11111 - 1666 to 1675 pounds
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 E111111 - 1716 to 1725 pounds
 F111111 - 1726 to 1735 pounds
 G111111 - 1736 to 1745 pounds
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 J111111 - 1766 to 1775 pounds
 K111111 - 1776 to 1785 pounds
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 M111111 - 1796 to 1805 pounds
 N111111 - 1806 to 1815 pounds
 O111111 - 1816 to 1825 pounds
 P111111 - 1826 to 1835 pounds
 Q111111 - 1836 to 1845 pounds
 R111111 - 1846 to 1855 pounds
 S111111 - 1856 to 1865 pounds
 T111111 - 1866 to 1875 pounds
 U111111 - 1876 to 1885 pounds
 V111111 - 1886 to 1895 pounds
 W111111 - 1896 to 1905 pounds
 X111111 - 1906 to 1915 pounds
 Y111111 - 1916 to 1925 pounds
 Z111111 - 1926 to 1935 pounds
 A1111111 - 1936 to 1945 pounds
 B1111111 - 1946 to 1955 pounds
 C1111111 - 1956 to 1965 pounds
 D1111111 - 1966 to 1975 pounds
 E1111111 - 1976 to 1985 pounds
 F1111111 - 1986 to 1995 pounds
 G1111111 - 1996 to 2005 pounds
 H1111111 - 2006 to 2015 pounds
 I1111111 - 2016 to 2025 pounds
 J1111111 - 2026 to 2035 pounds
 K1111111 - 2036 to 2045 pounds
 L1111111 - 2046 to 2055 pounds
 M1111111 - 2056 to 2065 pounds
 N1111111 - 2066 to 2075 pounds
 O1111111 - 2076 to 2085 pounds
 P1111111 - 2086 to 2095 pounds
 Q1111111 - 2096 to 2105 pounds
 R1111111 - 2106 to 2115

- At--Junior-Platzweicht

- [illegible]

- by the weight of the material for the exactness of the results.

- 11 12-to-18-pounds-not more than 3-pounds
12 19-to-26-pounds-not more than 5-pounds
13 26-to-35-pounds-not more than 7-pounds
14 35-to-45-pounds-not more than 9-pounds
15 47-to-69-pounds-not more than 11-pounds
16 60-to-85-pounds-not more than 13-pounds
17 80-and-over-not more than 15-pounds

- c) Prior to engaging in a match or exhibition, all contestants shall submit to a weigh-in and a physical examination within 24 hours prior to the contest on the day of the contest.

- d) The weigh-in shall be conducted at the time and place designated by the Department. The scales must weigh accurately and be capable of weighing up to an appropriate weight, as determined by the Department.
- e) The physical examination shall be conducted by a physician. He/she shall conduct such examination and tests as may be required, in order to attest to the fitness of the contestants engaged in the contest.

(Source: Amended at 25 Ill. Reg. 4229 =, effective MAR 1 '26.)

Section 1370.50 Fight Preparations (Repealed)

[illegible]

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the presence of a representative from the Department.

- a) Bandages shall be of a soft surgical gauze quality and shall not be over two inches wide and ten yards in length for each hand. The bandages shall be wrapped on each hand smoothly and evenly.
- b) Bandages shall be held in place by a single coverage of surgeon's adhesive tape, one inch wide. The tape shall be wrapped smoothly and evenly across the back of the hand and wrist above the knuckles.
- c) The winding of surgeon's adhesive tape shall be placed directly on each hand for protection around the wrist. The tape may cross the back of the hand twice, but shall not extend within 1/2 inch of the knuckles when the hand is clenched to make a fist. Three pieces of tape may be used on each hand between the knuckles to hold gauze in place.
- d) Application for a greater amount of tape or gauze for a specific reason must be made to the Department, which shall grant permission only if the requirement is reasonable.

(Source: Repealed at 25 Ill. Reg. 4229 effective

Section 1370.60 Ring Equipment (Repealed)

- a) An ample supply of boxing gloves shall be provided for each contestant by the promoter.
- b) All gloves must pass the inspection of the referee and representative of the Department.
- c) Each glove shall weigh at least six ounces for flyweight boxers and at least eight ounces for heavier classes.
- d) New sets of gloves must be available for use in main event or every show.
- e) Contestants must wear proper protective attire approved by the Department. All male boxers must equip themselves with a foot-punch resistant groin protector.
- f) Shoes shall be soft material and not be fitted with spikes, cleats, hard soles or hard heels.
- g) No boxer shall be permitted to perform in any contest without equipping himself with a standard mouthpiece.
- h) The promoter shall provide a sufficient number of sanitary plastic buckets and water bottles for the use of all contestants.
- i) The promoter shall provide a stretcher and oxygen inhalator in case of emergency.
- j) Breasing rooms must be equipped with:
 - 1) Showers,
 - 2) Rubbing tables,
 - 3) Chairs or benches, and
 - 4) Chipped ice.
- k) The promoter shall provide such other articles as required to properly conduct the contest.

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(Source: Repealed at 25 Ill. Reg. 4229 effective 4/1/11)

Section 1370.70 Conduct of a Contest (Repealed)

Each round shall commence at the sound of the bell. A round shall be no longer than 3 minutes and the end of each round shall be at the sound of the bell. A 1-minute rest period shall be allowed between each round.

a) The referee shall be the chief official of every contest and shall remain in the ring during the entire time of the contest.

b) Incapacitated referee:

1) If a referee becomes incapacitated and is unable to finish scoring a boxing contest, the clock shall be stopped and another referee shall immediately be assigned to score the contest.

2) The substitute referee shall continue scoring on the scorecard used by the incapacitated referee and such scorecard shall be the official scorecard in the determination of decision at the conclusion of the boxing contest.

3) The substitute referee must continue the round from the time of his substitution.

c) Referee shall be selected and assigned by the Department. When a referee has cause to suspect a violation, he shall file a report to the Department describing the incident(s).

d) The referee must report for duty at least one hour before the scheduled starting time of the show.

e) Referee must first report to their dressing room, then to ringside. They must stay at ringside and will avoid conversation, except with Department officials.

f) At the beginning of the contest, the referee shall call contestants to the center of the ring. Each contestant shall be accompanied only by his chief second. After receiving instructions, the contestants shall shake hands and retire to their corners. They shall not shake hands again until the beginning of the last round.

g) The contestants and the referee shall be the only persons allowed in the ring during the progress of a round.

h) The chief second shall be responsible for the conduct of his assistant seconds during the contest.

(Source: Repealed at 25 Ill. Reg. 4229 effective 4/1/11)

Section 1370.80 Scoring

a) Scoring shall be by 3 two licensed judges or 2 licensed judges and a referee in attendance to score each at each bout, stationed on opposite sides of the ring, and the referee. The judges shall watch every phase of the bout and make a decision if the contest lasts the full number of rounds scheduled. They shall be ready at all times, if

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requested by the referee, to assist in deciding whether fouls have been committed.

b) Points shall be awarded to contestants for clean lawful blows, landed on a vulnerable front part of the body above the belt. Points shall be credited by the judges in proportion to their damaging effects.

c) Aggressiveness shall be considered next in importance. Points shall be awarded to the contestant who sustains the action of a round by the greater number of skillful attacks.

d) Sportsmanship shall be considered next in importance. A contestant shall be awarded points for sportsmanlike action in the ring. Points may be taken away for unsportsmanlike conduct.

e) Defensive maneuvers are important and points shall be given for avoiding or blocking a blow.

f) Points shall be awarded where ring command is conspicuous. This comprises is comprised of such factors as the ability to take advantage of an opportunity; to cope with, foresee and neutralize an opponent's attack; or to force an opponent to adopt a style of boxing at which he is not skillful.

g) Points shall be deducted when a contestant persistently delays the action of a contest by clinching, holding or showing lack of aggressiveness.

h) System for Scoring a Contest
1) The scoring of the contest by the judges will be by either the five-point or ten 10-point system as determined by agreement between the promoter and the Department at the time of application for the permit.

2) Under the five-point system the winner of each round receives 5 points and the loser a proportionately less number. 3) Under the 10-point ten-point system the winner of each round receives 10 points and the loser a proportionately less number.

3) 4) If the round is even, each boxer receives the full number of points. No fractions are to be used.

4) If a round is stopped by a referee due to an accidental foul, the round shall be scored. The points shall be awarded to the boxer for the incomplete round.

i) No judges are necessary for boxing exhibitions, nor will there be an official score. All other rules shall apply.

(Source: Amended at 25 Ill. Reg. 4229, effective 4/1/11)

Section 1370.90 Knockdowns

a) A contestant shall be considered by the referee to be knocked down when any part of his/her body other than his/her feet is on the ring floor, and if he is hanging over the ropes and unable to defend himself, or rising from a down position.

b) A contestant hanging over the ropes is not officially "down" until so

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pronounced by the referee.

- c) When a contestant is knocked down, the referee shall order the opponent to retire to the farther neutral corner of the ring, pointing to the corner, and immediately pick up the count from the timekeeper and continue counting over the contestant who is down.
- d) The referee shall announce the passing of the seconds, audibly, accompanying the count with motions of his/her arm, the downward motion indicating the end of each second.
- e) There shall be a mandatory eight-count. Any contestant who is knocked down shall not be allowed to resume boxing until after the referee has finished counting eight. The contestant may take this count either on the floor or standing.
- f) Three knockdowns in one round shall be regarded as justifiable reason for the referee to halt a contest. The referee may allow a fight to continue after a boxer has been knocked down three times, if in his/her judgment the boxer is able to continue.
- g) If the contestant taking the count is still down when the referee calls the count of "Ten", the referee shall wave both arms to indicate that he/she has been knocked out and has lost the bout.
- h) Should the opponent fail to stay in the farther corner, the referee shall cease counting until he/she has returned to it; he/she will then go on with the count from the point at which it was interrupted.
- i) ~~The timekeeper's count is the official count.~~ A boxer who is knocked unconscious must not be moved or touched by anyone, except at the direction of the physician.
- 1) ~~The bell does not save the boxer in any round. When a round is over, the last round terminates before a contestant who has been knocked down shall have arisen from the floor of the ring; the timekeeper's and referee's count shall be continued and, if the fallen contestant fails to rise before the count of ten, he shall be considered to have lost the bout by a knockout in the round last concluded.~~
- k) ~~If any contestant fails to answer the bell after his/her last period between rounds, the referee shall declare his/her opponent the winner by a technical knockout in the round coming up. The referee shall so indicate on his scorecard.~~
- m) ~~Contestant out of the ring~~

1) ~~If a contestant has been knocked out of the ring or has fallen out of the ring during a contest, the referee shall at once order the other boxer to a neutral corner and shall inform the timekeeper to suspend time until directed to resume by the referee.~~

2) ~~The contestant who has fallen out of the ring or has been knocked out of the ring must return to the ring unassisted by his seconds. The referee may have the contest continued if, in his judgment, doing so will not cause serious injury to the boxer. If the referee stops the bout because a boxer has been knocked out of the ring or has fallen from the ring, the boxer remaining in~~

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~~the ring shall be awarded the decision by a technical knockout.~~
 1) ~~The referee may in his/her discretion stop a bout to protect a badly beaten boxer. The referee may stop a contest if he/she considers it too one-sided, or if a boxer can no longer protect himself/herself. In cases where a boxer sustains a cut eye or any other injury which in the judgment of the referee may incapacitate the boxer, the referee may call the physician into the ring to examine the boxer. In such cases the referee shall be guided by the physician's advice.~~

2) ~~No manager or second shall bring about the termination of a contest by tossing in a towel. The manager or second shall notify the physician or referee that the bout needs to be stopped. Seconds cannot walk into the ring.~~

(Source: Amended at 25 Ill. Reg. 4229, effective)

Section 1370-100 Foul, Injuries, Loss of Mouthpiece

a) Foul

1) ~~If one of the contestants shall fall to the ring floor, or otherwise indicate an unwillingness to continue because of a claim of a low-blow foul, the contest may be terminated, and the referee may award the contest to this opponent.~~

2) ~~In the case of an accidental foul so determined by the referee, the referee shall determine whether the contestant who has been fouled can continue. If the boxer's chances have not been seriously jeopardized as a result of the foul, the referee may order the bout continued after an interval of not more than 5 minutes rest.~~

3) ~~The following actions in a boxing contest shall be considered fouls:~~

A) ~~Hitting below the belt--however low below the waist--nor be the cause of forfeiture of a match;~~

B) ~~Hitting an opponent who is down;~~

C) ~~Holding an opponent with one hand while hitting with the other;~~

D) ~~Holding or clinching after the referee orders the contestants to break, or hitting on the break;~~

E) ~~Wrestling or kicking;~~

F) ~~Butting with the head or shoulder;~~

G) ~~Hitting with open gloves, hitting with the butt of the hand, wrist, or elbow and/or all back hand blows;~~

H) ~~Roughing on the ropes;~~

I) ~~Hitting in the back or kidney area;~~

J) ~~Hitting on the back of the head hand or neck;~~

K) ~~Jabbing the opponents eyes with the thumb of the glove;~~

L) ~~Hitting after the bell has sounded ending a round;~~

M) ~~Conduct that which in the opinion of the referee is~~

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- unsportsmanlike;
 N) Hitting with a back hand; and
 O) Hitting with an open glove.
 4) In case of an accidental foul, the referee shall determine whether the contestant who has been fouled can continue or not. If his/her chances have not been seriously jeopardized as a result of the foul the referee may order the bout continued after an interval of not more than 2 five minutes rest.
 5) Any contestant who deliberately fouls his/her opponent during a contest will be penalized with loss of points or disqualified depending upon the severity of harmfulness of the foul and its effect upon the opponent.

b) Injuries (Cuts)

- 1) When an injury (cut) is caused by a fair blow and the severity is such that the contestant cannot continue, the injured boxer shall be declared the loser by a technical knockout.
 2) Should a boxer intentionally foul his/her opponent causing an injury so severe that the injured boxer cannot continue, the offender shall be declared the loser by disqualification. If under the same circumstances (intentional fouling) the contest can continue, the referee shall penalize the offender by deducting points, depending upon the severity of the offense. In this case the referee shall notify the judges and Department that the injury has been caused by an intentional foul so that, if in the subsequent rounds the same injury should become so severe that the contest has to be suspended, the decision will be awarded as follows:
 A) Technical Draw: If the injured boxer is behind on points or is even on the score cards of the judges.
 B) Technical Decision: If the injured boxer is ahead in points on the score cards of the judges.

- 3) In the case of a contestant who injures himself/herself trying to foul an opponent, the referee shall not take any action. The injury will be considered as produced by a fair blow from his/her opponent.

- 4) Loss of mouthpiece. When a mouthpiece is knocked out of a boxer's mouth, the referee may call time when he/she deems there is a lull in action (not in the heat of battle). The referee may have the cornerman replace the mouthpiece. This action may be done one time per boxer during the bout without points being deducted from the boxer whose mouthpiece came out, at the discretion of the referee.

- 5) Cessation of contest because of unexpected reasons. Should unexpected or accidental reasons determine the cessation of a contest before completion of the scheduled rounds, a technical decision shall be awarded to the contestant who is ahead in points on the scorecard of judges and the referee, provided that at least 4 rounds have been completed when the cessation occurs. If the cessation occurs before 4 rounds have been completed, the decision will be a technical draw.

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- e) The referee shall exercise immediate authority, direction and control over the contest to which he/she has been appointed and shall enforce the rules of the Professional Boxing and Wrestling Act. The referee shall be the only person authorized to determine injuries, to decide if injuries were produced by a foul and if the foul was intentional or accidental.
 f) The referee shall have the power to stop a contest and render a decision at any stage if he/she considers it to be one-sided or if either contestant is in such condition that to continue the fight might subject the contestant to serious injury.
 g) In the case where a boxer receives a cut eye from a fair blow or an accidental butt or any other injury that a referee believes may incapacitate the boxer, the referee is empowered to stop the contest and consult the ringside physician concerning the advisability of allowing the bout to continue.
 h) A referee shall abide by the decision of the physician.

(Source: Amended _____ at 25 Ill. Reg. 4229 - ____, effective _____)

Section 1370.105 Ringside Physician and Paramedics

a) Ringside Physician

- 1) The ringside physician may enter the ring during the progress of a bout when he/she or the referee deems it necessary. He/she may enter the ring between rounds on his/her own judgment and shall inform the referee about his/her opinion in relation to the physical condition of either contestant.

- 2) The physician shall have drugs and medical supplies available in the event of injury to a contestant.

- 3) The physician shall report in writing to the Department all injuries received by a contestant. The physician shall also report on the fitness of the contestants to engage in further competition.

b) Paramedics

- 1) Paramedics shall be available at ringside to assist the ringside physician and provide emergency medical equipment, including resuscitation equipment.

- 2) Paramedics are responsible for a comprehensive evacuation plan for the removal of any seriously injured boxer from the boxing contest to a hospital facility where emergency medical care is provided.

- 3) Paramedics are responsible for knowing the location of the closest hospital emergency facility where adequate neurological care is immediately available for skilled emergency treatment of an injured boxer.

- 4) Paramedics must check the vital signs of all boxers prior to their participation in a boxing contest and after boxers complete

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their bouts. Paramedics will record this information on forms provided by the Department. Paramedics also will record their recommendation (stitches, x-rays, etc.) and advise the ringside physician of their recommendation.

(Source: Added at 25 Ill. Reg. 4229, effective _____)

Section 1370.110 Drugs and Stimulants Use of substances that alter performance--Stopping bleeding

The administration or use of drugs or stimulants, either before or during a match, to or by any boxer, is prohibited. Any contestants violating this Section shall be subject to disqualification.

- a) The direct or indirect administration and/or use of any substance for the purpose of altering the performance of a contestant in a contest is prohibited.
- b) From volitions or synthetic drugs or compounds for stopping bleeding are prohibited.

(Source: Amended at 25 Ill. Reg. 4229, effective _____)

Section 1370.120 Conduct of Ring Officials

Officials (referees, judges, announcers and timekeepers) may not show any partiality to any boxer at any time. There shall be no discussion of any kind among officials with regard to the decision or program. The officials shall not discuss previous bouts while the program is in progress.

- a) No show shall be allowed to proceed unless a physician is available at ringside--the physician shall not leave until after completion of the final contest.
- b) In order that the physician shall be prepared to assist in the event of injury to a contestant the physician shall have available drugs and medical supplies.
- c) The physician shall report in writing to the Department all injuries received by a contestant--he shall report on the fitness of the contestant to engage in further competition.
- d) The physician shall fill out insurance forms as may be required in connection with a contestant's injury.
- e) There shall be a timekeeper responsible for keeping track of time during the contest--he shall be equipped with a whistle, a knockdown watch and a three-minute stop watch.
- f) The timekeeper shall use his whistle only to indicate that ten seconds remain before the beginning of the next round.
- g) The timekeeper shall indicate the commencing and conclusion of each round by sounding the going or bell--the going or bell must be approved by the Department.

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- h) In the event a bout terminates before its scheduled number of rounds, the timekeeper shall inform the announcer of the exact duration of the bout.
- i) In the event of a knockdown, the timekeeper shall begin the count which shall be continued by the referee.
- j) Between one and three weeks before the competition the promoter shall submit to the Department a complete record of the last six performances of any boxer for whom he is arranging a contest.
- k) No more than three seconds shall work in any boxer's corner; they must wear sanitary attire.
- l) Seconds shall not enter a ring until a bell indicates the end of the round--they shall leave the ring with the sound of the timekeeper's whistle ten seconds before the round is to begin--they shall remove all obstructions from the ring.
- m) Seconds are not permitted to yell or shout to contestants during the contest; they may not assist a contestant during the round or heckle or annoy his opponent--the chief second shall be equipped with adequate first-aid supplies.

(Source: Amended at 25 Ill. Reg. 4229, effective _____)

Section 1370.140 State of Illinois Boxing Championships

- a) All title bouts will be 12 rounds, each of which is 3 minutes, with one minute of rest between rounds.
- b) Scoring will be the 10-point system as described in Section 1370.80. The scoring will be done by 3 judges. The judges will be a non-scoring official.
- c) In the event a boxer is knocked down, there will be a mandatory 8-count. There is no standing 8-count.
- d) The bout will be stopped any time the referee or physician considers it necessary for the safety of either contestant.
- e) The weigh-in will be set by the Department. The champion and challenger will have 2 hours after the initial weigh-in to make weight; if either fails to make weight, no title will be at stake.
- f) A champion must keep his/her boxing license up to date. He/she will have 30 days after the expiration date, which is September 30 of odd-numbered years, to renew his or her license. If the license is not renewed, the boxer's title will be vacated.
- g) A champion must defend or have a contract to defend his/her title every 6 months or his/her title will be vacated.
- h) If a champion is convicted of any felony and must be incarcerated, his/her title will be declared vacant.
- i) If a champion wins a major title, such as International Boxing Federation, World Boxing Organization, WBC, World Boxing Association, NABF, NABO or United States Boxing Association, he/she must relinquish his/her State title.

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- j) All championship bouts must be approved by the Department.
 k) A 10% fee above the normal scale will be paid to the officials who work the championship bout.
 l) The championship belt must be provided by the promoter for the new champion.
 m) It is the responsibility of the champion's manager to contact a promoter for the defense of the champion's title.
 n) There will be no sanction fee for the championship bout.
 o) Gloves will be 8-ounce thumb web. Contestants 150 pounds and over may wear 10-ounce gloves.
 p) A boxer must be licensed in Illinois and residing in Illinois or an adjacent state before he/she is eligible to be rated. He/she must also have at least one fight every 6 months.

(Source: Added at 25 Ill. Reg. 4229, effective Nov 1, 2011)

Section 1370.160 Manager - Boxer Contracts

- a) A licensed manager and boxer shall file their contract with the Department.
 b) The Department shall recognize the filed document until such time as both parties appear before the Department to cancel or a court of law so notifies the Department that the contract is null and void.

(Source: Added at 25 Ill. Reg. 4229, effective Nov 1, 2011)

SUPPORT C: WRESTLING

Section 1370.200 Application Applications for a License as a Wrestling Promoter License

- a) An applicant for licensure as a wrestling promoter shall file an application. Wrestling promoter applications for registration shall be completed on forms supplied by the Department, and shall be submitted with the required fee. The application shall include:
 1) Two recent photographs;
 2) Proof of the filing of the surety bond of no less than \$10,000 to cover financial obligations required by Section 11 947 of the Act; and
 3) A financial statement prepared by a certified public accountant showing sufficient liquid working capital of at least \$10,000 or a performance bond of at least \$10,000 guaranteeing payment of obligations relating to the wrestling exhibition; assets to meet the financial obligations for anticipated events;
 4) Proof of good moral character, which includes notification of any felony conviction that might have a direct relationship to duties

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as a promoter of any discipline in another jurisdiction in which the promoter is licensed;

- 5) Proof of at least one year of experience in the wrestling profession; and
 6) The required fee set forth in Section 1370.305.
 b) When the accuracy of any submitted documentation or the relevance or sufficiency of the experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:
 1) Provide such information as may be necessary; and/or
 2) Appear for an interview before the Board to explain such relevance or sufficiently clarify information or clear up any discrepancies or conflicts in information.
 b) Other Applications for licensure--Applications for licensure as managers, referees, and timekeepers shall be completed on forms supplied by the Department. The application shall include:
 1) Two recent photographs;
 2) Evidence of good moral character through information relating to his other business and financial interests. Such evidence shall consist of, but not be limited to, information showing whether there is a conflict of interest and whether the applicant has satisfactory business expertise;
 3) Proof that the applicant has had at least one year of experience in the same area in amateur wrestling contests or has been licensed in another state for one year; and
 4) The required fee;
 5) For managers and trainers/seconds a listing of all contestants for which he will act in his professional capacity.

(Source: Amended at 25 Ill. Reg. 4229, effective Nov 1, 2011)

Section 1370.205 Application for a License as a Wrestling Referee or Timekeeper

- a) An applicant for licensure as a referee or timekeeper shall file an application with the Department, on forms supplied by the Department, and shall include:
 1) A recent photograph;
 2) Proof of good moral character, which includes notification of any felony conviction that might have a direct relationship to duties as a referee or timekeeper or any discipline in another jurisdiction in which the referee or timekeeper is licensed;
 3) Proof of at least one year's experience in the wrestling profession;
 4) A letter of recommendation from a licensed wrestling promoter; and

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- 5) The required fee set forth in Section 1370.305. When the accuracy of any submitted documentation or the relevance or sufficiency of the experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:
- 1) Provide such information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Added at 25 Ill. Reg. 4229 - , effective 4/21/11)

Section 1370.206 Application for a Permit to Conduct a Wrestling Exhibition

- a) An application for a permit to conduct a wrestling exhibition shall be completed on forms supplied by the Department at least 10 days prior to the scheduled event and shall include:
- 1) The names, addresses and license numbers of the promoters;
 - 2) The time, date and location of the event;
 - 3) The seating capacity of the location where the event is to be held;
 - 4) A copy of the lease or proof of ownership of the building where the event is to be held;
 - 5) The admission charge or charges to be made;
 - 6) A letter from the security agency licensed pursuant to the Private Detective, Private Security, Alarm and Locksmith Act of 1983 contracted to provide security for the show stating the number of guards they intend to use at that location on that date or letter from the facility indicating in-house security will be provided on the date of the show;
 - 7) Names of the contestants;
 - 8) Proof of a minimum of \$10,000 liability insurance for each contestant;
 - 9) Name, address and phone number of the nearest hospital with a neurological unit; and
 - 10) The fee required by Section 1370.305 of this Part.
- b) Any special request regarding the conduct of the wrestling exhibition must be approved prior to the exhibition by Department representatives.
- (Source: Added at 25 Ill. Reg. 4229 - , effective 4/21/11)
- Section 1370.207 General Wrestling Exhibition Requirements
- a) Registration of wrestlers is required, on forms provided by the

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- Department, prior to their participation in a professional match held in Illinois. Wrestlers must provide their ring name, social security number, address, telephone number and a photograph.
- b) Promoters, timekeepers and referees must be licensed by the Department.
 - c) No female versus male exhibitions are permitted.
 - d) No animal versus human exhibitions are allowed.
 - e) Any non-licensed person participating in a wrestling exhibition must register his/her name, address, telephone number and social security number with the Department.
 - f) All wrestlers must be examined by a licensed physician, paramedic or nurse prior to their wrestling exhibition.

(Source: Added at 25 Ill. Reg. 4229 - , effective 4/21/11)

Section 1370.210 Structure of Ring

- a) The ring for a wrestling exhibition shall be no less than 15 feet square, or larger than 24 feet square. The ring floor shall be constructed of at least a one-inch base of building board; it shall be padded with a one-inch layer of ensolite, foam rubber or their equivalent. There must be a top covering of canvas, duck or similar material tightly stretched and placed to the ring platform. The covering must be lean and free of resin. The ring shall have four posts not less than 3 inches in diameter that extend from the floor of the ring to a height of no less than 48 inches or more than 58 inches. The posts shall be securely anchored and adequately padded.
- b) The ring shall have a minimum of 3 three ropes, each not less than one inch in diameter. The ropes shall be padded with a soft material.
- c) The floor of the ring shall not be more than 4 feet above the floor on which it is standing, and shall be supplied with steps for the entry and departure of contestants and officials, as the Department may require.
- d) The platform of the ring must extend beyond the ropes for a distance of at least 3 three feet.
- e) The ring shall be kept clear of obstructions.

(Source: Amended at 25 Ill. Reg. 4229 - , effective 4/21/11)

Section 1370.220 Preparations for an Exhibition

- a) Prior to engaging in an exhibition all wrestlers shall submit to a physical examination on the day of the exhibition.
- b) The physical examination shall be conducted by a physician. He shall conduct such examinations and tests as may be required to attest to the fitness of the contestants engaged in the exhibition.

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promoter shall provide a stretcher and oxygen inhalator at ringside in case of emergency.

b) Dressing rooms must be equipped with:

- 1) Showers;
- 2) Rubbing benches; and
- 3) Chairs or tables.

c) The wrestler's skin must be free of grease or other foreign substances. The fingernails must be trimmed well below the tops. Clothing shall be suitable for an athletic contest and shoes shall have soft tops and soles.

(Source: Amended at 25 Ill. Reg. 4229, effective 9/13/01)

Section 1370.230 Conduct of an Exhibition

a) The referee shall be the chief official of every exhibition and shall remain in the ring during the entire time of the exhibition.

b) In the event a referee becomes incapacitated and is unable to finish officiating the exhibition, time out shall be called and another referee shall immediately be assigned to officiate.

c) Referees shall be selected and assigned by the Department. When a referee has cause to suspect a violation, he shall file a report to the Department describing the incident(s).

d) The referee must report for duty at least one hour before the scheduled starting time of the show.

e) Referees must first report to their dressing room, then to ringside. They must stay at ringside and will avoid conversation, except with Department officials.

f) At the beginning of the exhibition, the referee shall call the wrestlers to the center of the ring.

g) The wrestlers and the referee shall be the only persons allowed in the ring during the progress of an exhibition.

(Source: Amended at 25 Ill. Reg. 4229, effective 9/13/01)

Section 1370.260 Holds (Repealed)

Any type of hold, grip, lock, or trip shall be allowed except:

- a) Straddle holds, scratching, gouging, hitting or striking with the finger, pulling hair, using knuckles, kicking;
- b) Shutting off breathing by covering nose and mouth at the same time; and
- c) Deliberately throwing opponents out of the ring.

(Source: Repealed at 25 Ill. Reg. 4229, effective 9/13/01)

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Section 1370.270 Wrestler Out out of Ring (Repealed)

When one wrestler is out of the ring, whether on the apron, under the ropes, or on the floor, his opponent shall immediately retire to the opposite side of the ring and remain there until the wrestler who is out of the ring has returned and the referee has instructed them to resume wrestling.

a) When a wrestler falls from the ring:

- 1) When one or both wrestlers fall from the ring so that part of the body touches the floor, the referee and timekeeper shall begin a count.
- 2) The count shall be either 10 or 20, as determined by agreement between the wrestlers and the Department at the time of application for the permit.
- 3) If neither wrestler returns before the end of the count, the match shall be declared a draw.
- 4) If one wrestler returns to the ring before the end of the count but his opponent fails to return before the end of the count, the match shall end with the wrestler in the ring being awarded the decision.

b) Wrestlers under ropes:

- 1) When wrestlers roll under the ropes but not off the apron of the ring, the referee and timekeeper shall begin a count of five.
- 2) If neither wrestler returns before the end of the count of five, the match shall end and neither wrestler will be awarded the decision.
- 3) If one wrestler returns to the ring before the end of the count of five and his opponent fails to return before the end of the count of five, the match shall end and the wrestler in the ring shall be awarded the decision.

(Source: Repealed at 25 Ill. Reg. 4229, effective 9/13/01)

Section 1370.290 Australian Tag Team Wrestling (Repealed)

In addition to the above Rules governing wrestling, the following requirements shall apply to Australian Tag Team Wrestling:

- a) There shall be a 45-minute time limit or two of three team falls, with two minutes rest between team falls. Team falls occur only when one wrestler from a team has lost a fall.
- b) The exhibition begins with one wrestler from each team wrestling each other while the team partner remains on the apron of the ring.
- c) Tagging
- d) In order to reach his partner, a wrestler must have hold of a regulation three-foot double-rope with a knot in one end and the other end topped over the ring post of his team's corner. At the time of a tag contact between partners, the wrestler outside of the ropes must have both feet on the apron floor and must reach

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- only over the top rope to make the contact;
- 2) A wrestler can enter the ring only if his partner is defeated, or he is able to touch his partner's hand to relieve him;
- d) After tagging his partner, a wrestler in the ring must retire to the outside of the ring before his partner can enter the ring;
- e) Team partners may substitute for each other as often as they desire but must do so by the procedure outlined above;
- f) Time-out must be taken after an injury to permit the injured wrestler to be removed from the ring;
- g) If a wrestler is injured so that he cannot continue, his partner must carry on alone;
- h) If neither team has been able to win two falls at the expiration of the time limit, the team having the most falls to its credit is to be declared the winner;
- i) If there is a cause for disqualification for a contestant while wrestling his opponent, the referee shall hold on to the corner until tagged by his partner;
- j) It shall also be cause for disqualification for a contestant while wrestling his opponent if he fails to assist his partner or to interfere with an opponent.

(Source: Repealed at 25 Ill. Reg. 4229, effective July 1, 1991.)

Section 1370.300 Medical Supervision

- a) No wrestling exhibition shall be allowed to proceed unless a physician is available at ringside or on call. If the physician is on call, a registered nurse, certified paramedic or a registered physician's assistant must be available at ringside. The medical personnel shall not leave until after completion of the final exhibition.
- b) In order that the medical personnel shall be prepared to assist in the event of injury to a wrestler, the medical personnel shall have available drugs and medical supplies to be administered only by the physician or at his/her direction.
- c) The medical personnel present shall report in writing to the Department all injuries received by any contestant. He/she shall report on the fitness of the wrestler to engage in further competition.
- d) The medical personnel present shall fill out insurance forms as may be required in connection with a wrestler's injury.

(Source: Amended at 25 Ill. Reg. 4229, effective July 1, 1991.)

SUPPORT D: GENERAL PROVISIONS

Section 1370.310 Definitions

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Unless the text indicates otherwise, the following terms shall be defined as indicated:

- "Act" means the Professional Boxing and Wrestling Act [225 ILCS 1051].
- "Athletic event" means both professional boxing contests and wrestling exhibitions.
- "Department" means the Department of Professional Regulation.
- "Board" means the State Boxing and Wrestling Board.
- "Exhibition" means a) a show of boxing or sparring in which there is no score or decision.
- b) "Manager" means a person licensed by the Department who is not a promoter and who, under contract, agreement or other arrangement with any boxer, undertakes to directly or indirectly control or administer the boxing affairs of boxers. --one who for compensation directs or controls the professional activities of any boxer or wrestler.
- c) "Physician" means a) a person licensed by the Department to practice medicine in all of its branches.
- d) "Show" means a) a complete program of boxing or sparring contests or exhibitions, or wrestling matches or exhibitions.
- e) Amateur tag team: A team of two wrestlers who wrestle against another team of two wrestlers.
- f) Fall or stand: The act of one wrestler knocking another wrestler or his back so that both shoulders touch the mat for a count of three seconds.

(Source: Amended at 25 Ill. Reg. 4229, effective July 1, 1991.)

Section 1370.320 Applications for Permits (Repealed)

- a) Applications for permits to conduct boxing contests or to hold wrestling exhibitions are supplied by the Department. --Such applications shall be received by the Department at least 10 working days prior to the date of the scheduled event. --The application shall include:
- 1) Names and addresses of all officers of the club, partnership, corporation or association;
- 2) The required fee;
- 3) The exact time and place of the show;
- 4) The admission charge or charges;
- 5) The name of the contestants and/or for boxing contest; --the names

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- 6) of the seconds;
 7) the amount of compensation or percentage of gate receipts to be paid to each participant;
 7) Name(s) of Medical Personnel;
 A) For a boxing show, the name of the physician who will be present at the show; and
 B) For a wrestling show, the name of the physician who will be present the night of the show or the name of the physician who will be on call that night and the name of the registered nurse, certified paramedic or physician's assistant who will be present at the show; and
 8) the seating capacity of the building or hall where the show is to be held;
 9) At the time of application for permit the promoter shall also submit the following:
 1) A copy of the lease or proof of ownership of the property in which the show is to be held;
 2) A letter from the security agency contracted to provide security for the show stating the number of guards they intend to use at that location on that date;
 3) Proof of medical, hospital, and life insurance as required by Section 9(2) of the Act;
 4) For boxing contests, in an emergency, the Director may issue a temporary permit to engage in a single boxing contest pursuant to Section 9 of the Act;

(Source: Repealed at 25 Ill. Reg. 42 2 9, effective July 1, 2011.)

Section 1370.325 Requirements for Closed Circuit Telecasts (Repealed)

- a) Closed circuit telecasts for boxing and wrestling exhibitions shall be held by promoters licensed in accordance with Sections 136020 and 136030 of this Act;
 b) To show unlimited closed circuit events for one year, a licensed promoter shall file an application with the Department, on forms provided by the Department, along with a \$400 per year registration fee;
 c) In addition, for each event to be telecast, the promoter shall notify the Department at least 10 days prior to the event, on forms provided by the Department, of the location, date and time of the telecast; the notification shall include a \$25 fee for each location where the telecast is shown;

(Source: Repealed at 25 Ill. Reg. 42 2 9, effective July 1, 2011.)

Section 1370.330 Compensation (Repealed)

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Compensation of the referee, announcer, timekeeper, judges and medical personnel shall be paid by the promoter, but the Director shall establish the fee to be paid which shall be the usual and customary fee;

(Source: Repealed at 25 Ill. Reg. 42 2 9, effective July 1, 2011.)

Section 1370.340 Payment of Taxes

Pursuant to Section 13 of the Act, a tax of 10% of the first \$500,000 of total gross receipts from the sale of admission tickets of admission to an athletic event a contest, exhibition or show shall be paid by the promoter to the Department to be placed in the general revenue fund. The tax is to be paid on the day of the athletic event. To facilitate assessment of the tax, the following procedures shall be followed:

- Tickets shall be printed in such form as the Department shall prescribe.
- A sworn inventory of all tickets printed for any show shall be mailed to the Department by the promoter printer at least 7 to 9 days before the show.
- A sworn inventory of all tickets printed for any show shall be sent to the Department by the promoter within 24 hours after receipt of delivery from the printer. The total number of tickets printed shall not exceed the total seating capacity of the premises where the event in which the show is to be held.
- No tickets of admission to any athletic event show shall be sold except tickets declared on an official ticket inventory. Tax shall be collected on all tickets unaccounted for immediately after the event show.
- No ticket holder shall pass be passed through the gate without having the ticket separated from the stub. However, members of the news media assigned to work by their regular recognized employers, policemen and firemen in uniform and on duty, and persons of similar vocation are admitted free and are not liable for any tax on admission.
- The promoter shall send a verified written report showing the number of tickets sold for the show and the amount of the gross proceeds to the Department within 24 hours of the determination of the contest(s) or exhibition(s) as required by Section 13 of the Act.
- The Department shall collect the tax based on the face value of the tickets sold.
- All cases where it is determined that a promoter has made an incorrect statement of gate receipts, or has used tickets not appearing on the inventory, or by any subterfuge purports to reduce the amount of tax due under the law will result in revocation of license and/or forfeiture of bond.

(Source: Amended at 25 Ill. Reg. 42 2 9, effective July 1, 2011.)

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Week 1 of 1

Section 1370.350 Public Safety

When refreshments may be sold at the scene of a show except in paper containers, chairs must be securely attached so that they are not portable. Refreshments must be delivered by the Department.

(Source: Amended at 25 Ill. Reg. 429, effective 429.)

Section 1370.360 Renewals

a) Every license and registration issued under the Act shall expire on October 1 of each odd numbered year. The holder of a license or registration may renew his/her license or registration during the month preceding the expiration date thereof by paying the required fee.

It is the responsibility of each licensee/registrant to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee.

(Source: Amended at 25 Ill. Reg. 429, effective 429.)

Section 1370.370 Granting Variances

a) The Director may grant variances from this Part ~~these rules~~ in individual cases where he/she finds that:

- 1) The provision from which the variance is granted is not statutorily mandated;
 - 2) No party will be injured by the granting of the variance; and
 - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director shall notify the State Boxing and Wrestling Board of the granting of such variance, and the reasons therefor, at the next meeting of the Board.

(Source: Amended at 25 Ill. Reg. 429, effective 429.)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Long-Term Care Assistants and Aides Training Programs Code

2) Code Citation: 77 Ill. Adm. Code 395

3) Section Numbers: 395.160
Adopted Action:
Amendment

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) Effective Date of Rulemaking: March 20, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: September 1, 2000 - 24 Ill. Reg. 13284

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version:

The following changes were made in response to comments received during the first notice or public comment period:

In the Source Notes, "24" was changed to "25".

The following changes were made in response to comments and suggestions of the JCAR:

In Section 395.160(a)(2)(A), "~~not-a-provisional-certificate~~" was changed to "that of a provisional certificate".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

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15) Summary and Purpose of Rulemaking: Section 395.160 is being amended to allow a provisional teaching certificate for an instructor of a nurse aide training course.

16) Information and questions regarding this adopted amendment shall be directed to:

Paul Thompson
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@ldph.state.il.us

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 395

LONG-TERM CARE ASSISTANTS AND AIDES TRAINING PROGRAMS CODE

SUBPART A: PROGRAM APPLICATION AND APPROVAL PROCESS

Section	Definitions
395.50	Program Sponsor
395.100	Application for Program Approval
395.110	Review Process and Program Approval
395.120	Review of Approved Training Program
395.130	Inactive Status
395.140	Minimum Hours of Instruction
395.150	Instructor Requirements
395.160	Program Operation
395.170	Successful Completion of the Basic Nursing Assistant Training Program
395.173	Successful Completion of the Developmental Disabilities Aide or Basic Child Care/Habilitation Aide Training Program
395.174	Program Notification Requirements
395.175	Department Monitoring (Repealed)
395.180	Denial, Suspension, and Revocation of Program Approval
395.190	Other Programs Conducted by Facilities (Repealed)
395.200	

SUBPART B: TRAINING PROGRAM CURRICULA REQUIREMENTS

Section	Basic Nursing Assistant Training Program
395.300	Developmental Disabilities Aide Training Program
395.310	Basic Child Care/Habilitation Aide Training Program
395.320	

SUBPART C: PROFICIENCY EXAMINATION

Section	Proficiency Examination
395.400	

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Adopted at 13 Ill. Reg. 19474, effective December 1, 1989; amended at 17 Ill. Reg. 2984, effective February 22, 1991; emergency amendment at 20 Ill. Reg. 529, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10085, effective July 15, 1996; amended at 22 Ill. Reg. 4057, effective February 13, 1998; amended at 25 Ill. Reg. 4264, effective April 24, 1999.

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SUBPART A: PROGRAM APPLICATION AND APPROVAL PROCESS

Section 395.160 Instructor Requirements

- a) Requirements for Instructors in a Basic Nursing Assistant Program or a Basic Child Care/Habilitation Aide Training Program

1) Each course instructor shall be a registered nurse with a minimum of two years nursing experience, who has no other duties while engaged in the training program. Instructors shall be required to have one year of experience as a registered nurse in one or both of the following areas:

- A) Teaching an accredited nurse's training program.
 - B) Caring for the elderly or for the chronically ill of any age through employment in a nursing facility, extended care unit, geriatrics department, chronic care unit, hospice, swing bed unit of a hospital, or other long-term care setting.
- 2) Each theory course instructor shall also possess at least one of the following qualifications:
- A) A valid Illinois teaching certificate (not of a provisional certificate).
 - B) A certificate indicating completion of a Department approved train the trainer workshop/program.
 - C) Evidence of at least one semester of formal teaching experience.
 - D) College coursework during the previous six years, which includes at least one course in teaching/learning principles, curriculum development, teaching methods, or instructional techniques.

- b) Requirements for Instructors of the Alzheimer's Disease and Related Dementias (Section 395.300(r) through (z)) Portions of a Basic Nursing Assistant Program

- 1) Each instructor shall be a registered nurse, who has no other duties while engaged in the training program.
- 2) Each instructor shall also possess at least one of the following qualifications:
 - A) At least one year of experience providing services for patients with Alzheimer's disease and related dementias and at least one semester of formal teaching experience.
 - B) Documentation of completion of a specialized workshop, course, seminar or other training for instruction in Alzheimer's disease and related dementias.

- c) Requirements for Instructors in a Developmental Disabilities Aide Training Program

- 1) The curriculum coordinator monitors the Developmental Disabilities Aide Training program and ensures that instructors are qualified and are instructing the program as required.
- 2) Each program instructor of theory shall meet at least one of the

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following:

- A) Be a Qualified Mental Retardation Professional with at least one year of experience with developmental disabilities programs;
- B) Have a valid Illinois teaching certificate with at least one year of experience with developmental disabilities programs;
- C) Be a community college or college instructor with at least one year of teaching experience and familiarization with developmental disabilities programs;
- D) Be a registered nurse with at least one year of experience with developmental disabilities programs.
- d) Supplemental Instructors (Special Content Instructor) in a Basic Nursing Assistant Program and Developmental Disabilities Aide Program must have at least one year experience in their fields of expertise. These would include, but not be limited to, registered nurses, licensed practical nurses, pharmacists, dieticians, social workers, sanitarians, fire safety experts, nursing home administrators, gerontologists, psychologists, physical and occupational therapists, activities specialists, speech/language/hearing therapists, and resident rights experts. (42 CFR 483.152(a)(5)(iv))

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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NOTICE OF ADOPTED AMENDMENTS

Heading of the Part: Public Area Sanitary Practice Code

2) Code Citation: 77 Ill. Adm. Code 895

3) Section Numbers: Adopted Action:

895-20 Amendment

895-50 Amendment

895-60 New Section

4) Statutory Authority: Implementing Section 9 of The Illinois Groundwater Protection Act [415 ILCS 55/9] and authorized by Section 2 of the Department of Public Health Act [20 ILCS 2305/2].

5) Effective Date of Amendments: March 10, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposed Rulemaking was Published in the Illinois Register:
March 17, 2000 (24 Ill. Reg. 4170)

10) Has the Joint Committee on Administrative Rules issued a Statement of Objection to this rulemaking? No

11) Difference Between Proposal and Final Version: Various typographical, grammatical and technical changes were made in response to comments from the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee been made as indicated in the agreements issued by the Joint Committee.

13) Will the rulemaking replace emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Amendments: This Part specifies water quality standards for semi-private water supplies and currently references the Department's rules applicable to non-community public water supplies (Drinking Water Systems Code; 77 Ill. Adm. Code 900). To clarify what is required of semi-private water supplies, the standards are included in these rules and are updated for consistency. A new Section is added to

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specify procedures for required public notification when a supply is out of compliance with maximum contaminant level standards. The rulemaking also specifies that public restroom sanitation requirements apply to restrooms that are required for employees, in addition to those restrooms that are made accessible to the public.

16) Information and questions regarding these adopted amendments shall be directed to:

Paul Thompson
Department of Public Health
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
(rules@dp.h.state.il.us)

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER 1: WATER AND SEWAGE

PART 895

PUBLIC AREA SANITARY PRACTICE CODE

Section

895.10

Definitions

895.20

Water Supply

895.30

Sewage Disposal

895.40

Plumbing

895.50

Restrooms

895.60

Public Notification

AUTHORITY: Implementing and authorized by Section 9 of the Illinois Groundwater Protection Act [415 ILCS 55/9] and Section 2 of the Department of Public Health Act [20 ILCS 2305/2].

SOURCE: Filed July 18, 1974, effective August 1, 1974; old rules repealed and new rules adopted and codified at 8 Ill. Reg. 3334, effective March 2, 1984; amended at 15 Ill. Reg. 18003, effective January 1, 1992; amended at 25 Ill. Reg. 4269, effective March 1, 2003.

Section 895.20 Water Supply

a) Source. A supply of water in compliance with this Section shall be provided to any residential dwelling subject to this Part. The source of water serving a semi-private water supply, including water supplied to employees, or the source of any water supply, when made accessible to the public for drinking, cooking or washing purposes, shall be obtained from one of the following:

- 1) a public water supply;
- 2) a water well which is located and constructed in accordance with the Illinois Water Well Construction Code (77 Ill. Adm. Code 920) and Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925);
- 3) a surface water supply constructed in accordance with the Surface Source Water Treatment Code (77 Ill. Adm. Code 930) or and in compliance with "Ten States Standards" (1982 Edition - Health Education Service, P.O. Box 7283, Albany, New York, 12224) for potable water;
- 4) a hauled water supply utilizing a public water supply as the source. All water must be hauled in a tank protected against contamination and used only for this purpose. In an emergency, equipment used for handling other potable materials, such as milk and syrup, may be used after cleaning and disinfection with a solution of not less than one hundred parts per million of free

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chlorine. A watertight holding tank protected against possible entry of contamination is required and if any portion is below ground, location with respect to sources of contamination must be the same as for a well source. Required distances from sources of contamination to a well are found in Section 920.50 of the Illinois Water Well Construction Code (77 Ill. Adm. Code 920).

Transfer of the water from the hauling tank must be in a manner which will not result in contamination.

- b) Maximum Contaminant Levels. Any water supply, excluding public water supplies, when the water will be made accessible to the public, including potable water supplied to employees, shall meet the nitrate, turbidity, and bacteriological requirements contained in subsections (b)(1), (2), and (3). Sections 998-567--998-69--and-998-79-of-the Drinking-Water-Systems-Code-(77-III-Adm-Code-998)-for-non-community water-systems---in-addition-any-semi-private-water-supply-serving-a-residents-population-shall-meet-the-nitrate--inorganic-chemical-turbidity--organic-chemical-and-bacteriological-requirements-contained-in-Sections-998-567--998-69--998-65-and-998-79-of-the-Drinking-Water-Systems-Code-(77-III-Adm-Code-998).

- 1) Semi-Private Water Supply. Any semi-private water supply serving a resident population shall meet the requirements for inorganic chemicals, synthetic organic chemicals, and volatile organic chemicals contained in subsections (b)(5), (6), and (7), respectively, as well as the overall requirements of subsections (b)(1), (2), and (3).

2) Nitrates/Nitrites.

- A) The maximum contaminant level for nitrate shall not exceed 10 milligrams per liter as nitrogen. Nitrate levels not to exceed 20 milligrams per liter as nitrogen may be allowed if the supplier of water demonstrates that:
 - i) the water will not be available to children under 6 months of age; and
 - ii) there will be continuous public notification stating nitrate levels exceeding 10 milligrams per liter as nitrogen and describing the potential effects of the contaminant exposure on public health.

- B) The maximum contaminant level for nitrite shall not exceed 1 milligram per liter as nitrogen.

- 3) Turbidity. The maximum contaminant level in a water system that uses surface water in whole or in part, measured at a representative entry point to the distribution system, shall not exceed one turbidity unit, except that turbidity values greater than 1 or less than or equal to 5 turbidity units may be allowed if the supplier of water can demonstrate to the Department and the Department agrees in writing that the higher turbidity does not do any of the following:
 - A) interfere with disinfection,
 - B) Prevent maintenance of an effective disinfectant residual

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throughout the distribution system.

- 4) Bacteriological. Any water supply that has 2 consecutive water samples positive for coliform bacteria, or has any water sample that is E. coli positive, is in violation of the coliform maximum contaminant level.

- 5) Inorganic Chemicals. The maximum contaminant levels for the following inorganic chemicals shall not be exceeded:

Chemical	Maximum Contaminant Level
Asbestos	7 million fibers/liter
Barium	2 mg/L
Cadmium	0.005 mg/L
Chromium	0.1 mg/L
Mercury	0.002 mg/L
Selenium	0.05 mg/L
Fluoride	4 mg/L
Lead	0.015 mg/L
Copper	1.3 mg/L
Antimony	0.006 mg/L
Beryllium	0.004 mg/L
Cyanide	0.2 mg/L
Nickel	0.1 mg/L
Thallium	0.002 mg/L

- 6) Synthetic Organic Chemicals. The maximum contaminant levels for the following synthetic organic chemicals shall not be exceeded:

Chemical	Maximum Contaminant Level
Alachlor	0.002 mg/L
Atrazine	0.04 mg/L
Carbofuran	0.002 mg/L
Chlordane	
1,2-Dibromo-3-Chloropropane	0.075 mg/L
(DBCP)	0.004 mg/L
Heptachlor	0.002 mg/L
Heptachlor epoxide	0.002 mg/L
Lindane	0.002 mg/L
Methoxychlor	0.04 mg/L
Polychlorinated biphenyls	
(PCBs)	0.005 mg/L
Pentachlorophenol	0.002 mg/L
Toxaphene	0.05 mg/L
2,4,5-trp (Silvex)	0.02 mg/L
Diquat	
Endothal	0.1 mg/L

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Glyphosate	0.7 mg/L
Oxamyl (Vydate)	0.2 mg/L
Picloram	0.004 mg/L
Sinazine	0.02 mg/L

- 7) Volatile Organic Chemicals. The maximum contaminant levels for the following volatile organic chemicals shall not be exceeded.

Chemical	Maximum Contaminant Level
Benzene	0.005 mg/L
Carbon tetrachloride	0.005 mg/L
1,2-Dichloroethane	0.005 mg/L
Trichloroethylene	0.005 mg/L
para-Dichlorobenzene	0.075 mg/L
1,1-Dichloroethylene	0.007 mg/L
1,1,1-Trichloroethane	0.2 mg/L
Vinyl chloride	0.002 mg/L
cis-1,2-Dichloroethylene	0.07 mg/L
1,2-Dichloropropane	0.005 mg/L
Ethylbenzene	0.1 mg/L
Monochlorobenzene	0.1 mg/L
o-Dichlorobenzene	0.6 mg/L
Styrene	0.1 mg/L
Tetrachloroethylene	0.005 mg/L
Toluene	1 mg/L
trans-1,2-Dichloroethylene	0.1 mg/L
Xylene	10 mg/L
Dichloromethane	0.005 mg/L
1,2,4-Trichlorobenzene	0.07 mg/L
1,1,2-Trichloroethane	0.005 mg/L

- 8) Maximum Contaminant Level Exceeded. At any time a maximum contaminant level is found to have been exceeded in any water supply and the water will be made accessible to the public for human consumption, excluding a public water system, the owner of the supply shall notify the local health department or the Illinois Department of Public Health for a determination regarding any required corrective action. It shall be the responsibility of the water supply owner to assure that any required analyses are performed by laboratories approved for these analyses by the Department or the Illinois Environmental Protection Agency and the results are submitted to the Department or the local health department. A list of approved laboratories will be provided by the Department upon request.

- c) Drinking Fountains. Drinking fountains must meet the requirements of the Illinois Plumbing Code (77 Ill. Adm. Code 890).

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(Source: Amended at 25 Ill. Reg. 4269, effective March 11, 1991)

Section 895.50 Restrooms

Where restrooms are made accessible to the public or required for employees, they shall meet the following requirements:

- a) Restrooms shall be accessible, completely enclosed, and shall have tight fitting doors. If vestibules are provided, they shall be kept in a clean and sanitary condition and in good repair. In determining whether a restroom is in a clean and sanitary condition and in good repair, the Department shall consider, but is not limited to, results of physical inspections, citizen complaints, and obvious rot and/or deterioration.
- b) When toilet facilities and lavatories are required by the Food Service Sanitation Code (77 Ill. Adm. Code 750), they shall be installed and provided in accordance with this such Code.
- c) Floors shall be constructed of impervious, easily cleanable material.
- d) Restrooms, including the toilet room and fixtures, shall be kept in a clean and sanitary condition and in good repair. All restrooms shall be ventilated.
- e) A supply of toilet tissue shall be provided at each toilet at all times.
- f) Cleanable refuse receptacles shall be provided and kept covered. A separate covered receptacle shall be provided in the toilet rooms for women for disposal of sanitary napkins. Receptacles shall be emptied at least once a day, and more frequently when necessary to prevent accumulation of refuse on the floor.
- g) Lavatories shall be provided and located within or immediately adjacent to all toilet rooms or vestibules. All lavatories shall be provided with hot and cold running water that which can be tempered by means of a valve or combination faucet.
 - 1) A supply of bar, liquid, or powdered hand-cleaning soap or detergent in a dispenser shall be available at each lavatory.
 - 2) A supply of single-use towels or a hand-drying device shall be available and located near the lavatory. Common towels are prohibited. Where disposable towels are used, waste receptacles shall be located conveniently near the hand-washing facilities.

(Source: Amended at 25 Ill. Reg. 4269, effective March 11, 1991)

Section 895.60 Public Notification

- a) If a semi-private water supply exceeds an applicable maximum contaminant level under this Part, the supplier of water shall give notice by posting public notification of the failure for as long as the failure continues. The posting shall be visible to all users of

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

the water.

b) Notices shall:

- 1) Be written in a manner reasonably designed to fully inform the water-supply users of the presence and dangers of the contaminant.
- 2) Be conspicuous.
- 3) Be easy to understand and not use unnecessary technical language.
- 4) Be plainly visible and not use small print or other formats that would make the notice difficult to read or inaccessible to persons viewing the notice.
- 5) Disclose all material facts, including the nature of the problem, preventive measures that should be taken by the users, and, when applicable, a clear statement that a drinking water regulation has been violated.
- 6) Be designed for the special needs of populations that include non-English speaking people, visually impaired people, or other non-English speakers.
- 7) Include an explanation of the significance or seriousness of the contaminant to the public health.

(Source: Added at 25 Ill. Reg. 4269, effective March 11, 1991)

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Persian Gulf Conflict Veterans' Compensation
- 2) Code Citation: 95 Ill. Adm. Code 121
- 3) Section Number: Proposed Action:
121.20 Amendment
- 4) Statutory Authority: 20 ILCS 2805
- 5) Effective Date of Amendment: March 13, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 24 Ill. Reg. 17514 - December 1, 2000
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: Grammatical changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? There were no agreements.
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any other proposed amendments pending on this Part? No
- 15) Summary and purpose of amendment: This rule has been amended to correct the statutory authority.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Donald Bullerman
833 S. Spring Street - PO Box 19432
Springfield IL 62794-9432
(217) 785-7208

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

TITLE 95: VETERANS AND MILITARY AFFAIRS
CHAPTER I: DEPARTMENT OF VETERANS' AFFAIRS

PART 121

PERSIAN GULF CONFLICT VETERANS' COMPENSATION

Section	Definitions
121.10	General Purpose
121.20	Responsibilities
121.30	Eligibility
121.40	Application for Payment
121.60	Support of Application
121.70	Proof of Eligibility
121.80	Service in the Merchant Marine
121.90	Civilian Work
121.90	Service in the United States Public Health Service
121.110	Honorable Separation
121.120	Continuous Service
121.130	Beneficiary Payments
121.140	Proof of Death
121.150	Payment to Survivors
121.160	Death of Serviceperson While in Service
121.170	Death From Service-Connected Disability
121.180	Contributory Causes of Death
121.190	Evidence of Entitlement to Compensation
121.200	Assignment of Right to Compensation
121.210	Payment to an Eligible But Mentally Incompetent Person
121.220	Payment to Chief Officer of any Hospital or Institution
121.230	Disallowed Claims

AUTHORITY: Implementing Section 2b of the Department of Veterans Affairs Act (20 ILCS 2805/2b) and authorized by Section 2.9. of the Department of Veterans Affairs Act (20 ILCS 2805).

SOURCE: Adopted at 16 Ill. Reg. 7707, effective May 1, 1992; expedited correction at 16 Ill. Reg. 10503, effective May 1, 1992; amended at 25 Ill. Reg. 4277, effective 1/1/01.

Section 121.20 General Purpose

The intent and purpose of this Part is to outline procedures under which the Department will make payment of a \$100 bonus to those persons who served in the Armed Forces of the United States during the time from August 2, 1990 through November 30, 1995 at any time on or after August 27, 1996 and until Congress--or the President--orders--such--persons--ineligible--for--the--Southwest--Asia--Service Medal--date--yet--to--be--determined, if the person was a resident of the State of Illinois for at least the 12 twelve months immediately preceding such entry

DEPARTMENT OF VETERANS' AFFAIRS

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into the Armed Forces. The Such-a person must have been honorably separated or discharged from such service, or still be on active duty, or have been retired, or have been furloughed to the reserve, and must have received the Southwest Asia Service Medal. The bonus can also be paid to the survivors or beneficiaries of a deceased person who would have been entitled to such payment if living.

(Source: Amended 4279 at 25 Ill. Reg. 4279 --, effective 2/01)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Specially Adopted Housing Grants
- 2) Code Citation: 95 Ill. Adm. Code 103
- 3) Section Number: 103.5
Proposed Action: Amendment
103.150
- 4) Statutory Authority: 330 ILCS 65
- 5) Effective Date of Amendments: March 13, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this proposed amendment contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 24 Ill. Reg. 17518 - December 1, 2000
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Changed Veterans Administration to U.S. Department of Veterans Affairs.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? There were no agreements.
- 13) Will these amendments replace emergency amendments currently in effect?
No
- 14) Are there any other proposed amendments pending on this Part? No
- 15) Summary and purpose of amendments: This rulemaking has been amended to correct the statutory authority.
- 16) Information and questions regarding these adopted amendments shall be directed to:
Donald Bullerman
833 S. Spring Street - PO Box 19432
Springfield IL 62794-9432
(217) 785-7208

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF VETERANS' AFFAIRS

NOTICE OF ADOPTED AMENDMENTS

TITLE 95: VETERANS AND MILITARY AFFAIRS
CHAPTER 1: DEPARTMENT OF VETERANS' AFFAIRS

PART 103

THE SPECIALLY ADAPTED HOUSING GRANTS

Section	
103.5	General Rules
103.10	Residency Defined
103.20	Further Proof of Residence
103.30	Statement of Failure to Apply for Bonus
103.40	Considered Residency
103.50	Date of Entering Service
103.60	Out-of-State Students
103.70	Payment of a Bonus by Another State
103.80	Residence at the Time of Entering Service
103.90	Questionable Cases of Residency
103.100	Documents Proving Residency to be Considered by the Appeals Board
103.110	Application of the Housing Grants
103.120	Applications in Duplicate
103.130	Determination of Requirements for Residency
103.140	Certification of Residency
103.150	Form of Assistance Granted
103.160	Certification that Grant Has Been Applied

AUTHORITY: Implementing the Disabled Veterans Housing Act [330 ILCS 65] and authorized by Section 2 of the Department of Veterans Affairs Act [20 ILCS 2805/2].

SOURCE: Filled and effective December 15, 1977; codified at 6 Ill. Reg. 8432; amended at 10 Ill. Reg. 20024, effective November 17, 1986; amended at 25 Ill. Reg. 4280 ___, effective 4/13/90.

Section 103.5 General Rules

The following general rules have been adopted by the Illinois Department of Veterans' Affairs for determining the question of whether an applicant was a resident of Illinois at the time he entered service, in compliance with the provisions of the Disabled Veterans Housing Act 44-209 to provide assistance to certain veterans in acquiring specially adapted housing which they require by reason of their service-connected disabilities--{ 330 ILCS 65}[Ill-Rev Stat-1985]-ch-116-1/2-par-50-et-seq-}.

(Source: Amended at 25 Ill. Reg. 4280 ___, effective 4/13/90.)

Section 103.150 Form of Assistance Granted

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The law requires that the assistance granted shall be in the form of a single lump sum payment to the veteran. For the specially adapted housing grant the payment shall not exceed the sum of \$15,000 \$12,000; for the special adaptation housing grant the payment shall not exceed the sum of \$3,000 \$2,000. Therefore, payment will be made to the veteran immediately upon receipt of a certification from the U.S. Department of Veterans Affairs Veterans Administration that final disbursement has been made under 38 USC 8-5-6r 2102 80i, as amended.

(Source: Amended at 25 Ill. Reg. 4280 ___, effective 4/13/90.)

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Service Appeal Process
- 2) Code Citation: 89 Ill. Adm. Code 337
- 3) Section Numbers:

337.30	Emergency Action:
337.30	Amendment
337.70	Amendment
337.80	Amendment
337.100	Amendment
- 4) Statutory Authority: Children and Family Services Act [20 ILCS 505/5];
- 5) Effective Date of Amendments: March 19, 2001
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable
- 7) Date Filed in Agency's Principal Office: March 19, 2001
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Reason for Emergency: Current Part 89 Ill. Adm. Code 337, by allowing foster parents and relative caregivers the right to appeal placement changes of foster children in their care, poses a threat to the safety and well-being of children when the Department has reason to believe the children are at risk of harm in the current placement.

- 10) A Complete Description of the Subjects and Issues Involved: The Department as guardian of children for whom the Department has legal responsibility has the sole right and responsibility for deciding, based on the child's best interests, the child's placement. Therefore, the Department is eliminating from Part 337 the opportunity on the part of foster parents and relative caregivers to appeal changes in the placement of children in their care.

The Department is also using this rulemaking to correct the address of the Administrative Hearings Unit. Continuance of the Unit's former address poses a hindrance to persons filing appeals as it may delay the appeal process.

- 11) Are there any proposed amendments pending to this Part: No
- 12) Statement of Statewide Policy Objectives: Not Applicable
- 13) Information and questions regarding this Amendment shall be directed to:

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 East Monroe Street, Station #65
Springfield IL 62701
Telephone: 217/524-1983
TDD: 217/524-3715
Facsimile: 217/557-0692
E-Mail Advisers: cfpolicy@dcfs.state.il.us

The full text of the Emergency Amendments begins on the next page:

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 337

SERVICE APPEAL PROCESS

The Service Appeal Process

Section

337.10

Purpose

337.20

Definitions

337.30

The Service Appeal Process

EMERGENCY

337.40

Department and Provider Agency Responsibilities on Appealable Issues

337.50

The Right to a Service Appeal

EMERGENCY

337.60

Who May Appeal

337.70

What May Be Appealed

EMERGENCY

337.80

What May Not Be Appealed

EMERGENCY

337.90

Notices of Department or Provider Agency Decisions

337.100

How to Request a Service Appeal

EMERGENCY

337.110

Grounds for Dismissal of a Service Appeal Request

337.120

Time Frames for the Service Appeal Process

337.130

Continuing Services During the Service Appeal Process

337.140

Confidentiality During the Service Appeal Process

337.150

Notice Concerning a Service Appeal

337.160

Abandonment of a Service Appeal

337.170

Fair Hearing Appeal Rights

337.180

The Administrative Law Judge

337.190

Record of a Fair Hearing

337.200

Combined Hearings

337.210

Continuances Requested in a Combined Hearing

337.220

The Final Administrative Decision

337.230

Who Receives a Copy of the Final Administrative Decision

337.240

Notice of the Availability of Judicial Review

337.250

Severability of This Part

AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5].

SOURCE: Adopted at 17 Ill. Reg. 1046, effective January 15, 1993; amended at 19 Ill. Reg. 7175, effective June 1, 1995; amended at 19 Ill. Reg. 10557, effective July 1, 1995; emergency amendment at 25 Ill. Reg. 4283--1, effective March 19, 2001, for a maximum of 150 days.

Section 337.30 The Service Appeal Process

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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EMERGENCY

The service appeal process for the Department of Children and Family Services consists of a mediation, which is optional, and a fair hearing. Initiation of a service appeal does not preclude ongoing discussion between the parties to resolve the appealed issues. If mediation resolves the issues, an agreement is drawn up with the assistance of the mediator and signed by the parties. In some instances the issue on appeal is too immediate to await the final administrative decision on the action. An emergency review may be held in lieu of mediation on the specific issues, and an interim decision will be issued by the reviewer pending the fair hearing and final administrative decision.

a) Mediation

- 1) The Department shall offer mediation to an appellant within 30 calendar days from the date of appeal in an attempt to resolve his or her issues. The appellant may accept or reject an offer to participate in mediation. No issues addressed and determined by an emergency review may be addressed in mediation. If mediation is successful, an agreement is drawn up, with assistance by the mediator, and signed by the parties. This constitutes a resolution of the fair hearing, but the appellant may restate the request for hearing if the agreement is violated.
- 2) If the dispute is not resolved in mediation, or if the appellant rejects the mediation agreement and the Department receives written notice of this rejection at least 15 calendar days after the mediation session, the appellant may then proceed to the fair hearing.
- 3) The individual conducting the mediation shall be trained as a mediator and shall have no prior involvement in the case.
- 4) Any party participating in mediation shall be prohibited from subpoenaing the mediator or documents developed during the mediation process in any subsequent proceeding.

b) Emergency Review

- An emergency review allows for an interim decision pending a fair hearing and can be requested by a party. The request for an emergency review must be in writing and shall be submitted to the Administrative Hearings Unit, Department of Children and Family Services, 406 E. Monroe, Springfield, Illinois, 62701 169--North--Hagley--6th--Floor Chicago--Illinois--60668. The emergency review must be requested within ten calendar days of the date of an appeal. A determination will be made whether the issues are appropriate for emergency review. If they are appropriate, the Department shall schedule an emergency review and the reviewer shall issue a decision, which shall include any corrective orders, within ten calendar days from the date of the request for emergency review. The Department shall implement the order within five calendar days from the date the decision was issued by the reviewer. An emergency review is held to consider only the following issues on appeal:

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- 1) Lack of timely Notice Due to Imminent Risk of Harm
A party may request an emergency review within ten calendar days of the date of appeal on any issue where the Department or provider agency has taken action without timely notice because the child was determined to be at imminent risk of harm. The reviewer shall consider only whether imminent risk of harm existed to justify the Department or provider agency action without timely notice. If the reviewer determines imminent risk of harm did not exist, the reviewer shall order corrective action.
- 2) Continuing Services Pertaining to Changes in Family Visitation and Placement During the Service Appeal
Where services pertaining to the family visitation plan and changes-in-placement remain unchanged because an appeal has been requested within ten calendar days of the date of notice, a party may request an emergency review, if that party has reasonable cause to believe that imminent risk of harm to the child will result if services remain unchanged during the appeal process. The only issue to be considered by the reviewer is whether imminent risk of harm to the child is likely to result from the stay of action. If the reviewer determines imminent risk of harm to the child is likely to result, the reviewer may order corrective action.
- c) Fair Hearing
At a fair hearing, the administrative law judge conducts a hearing in which the Department and all parties may present evidence supporting their position. The administrative law judge then makes a recommendation to the Director of the Department based on the evidence presented at the hearing. The burden of proof shall be on the Department to show by a preponderance of the evidence that the decision made was in the best interests of the child, in accordance with professional social work standards and Department administrative rules.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 4283, effective March 19, 2001, for a maximum of 150 days)

Section 337.50 The Right to a Service Appeal

EMERGENCY

- a) The Department or provider agency shall provide clear written instructions on how to request an appeal. These instructions shall be provided to children and families when the commencement or denial of services occurs, during the intake assessment period, when a decision has been made to change services, during the administrative case review, and at any time services are requested and denied. Instructions shall be provided to foster parents and relative caregivers upon placement of a child, when services are requested and

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- denied or a decision has been made to change services or upon the movement-of-a-child-from-one-substitute-care-setting-to-another.
- b) Information and instructions regarding the appeal shall be provided in writing in the appellant's primary language.
- c) If the appellant is unable to request a service appeal in writing the Department or provider agency shall provide assistance to ensure that the request is made in writing.
- d) The appeal may be filed by the appellant or his or her authorized representative.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 4283, effective March 19, 2001, for a maximum of 150 days)

Section 337.70 What May Be Appealed

EMERGENCY

- a) By Families and Children

Families and children may appeal the following issues:

- 1) the denial, in whole or in part, of child welfare or day care services in accordance with 89 Ill. Adm. Code 303, Access to and Eligibility for Day Care Services, requested by families, children, or an individual legally appointed to represent a minor, incompetent or incapacitated person or the failure of the Department or its provider agency to decide, within 30 calendar days of the date of the request, whether to grant or deny services requested by the parents or children;
- 2) a decision to reduce, suspend or terminate services;
- 3) the choice of a permanency goal or the denial of a request for a change in permanency goal;
- 4) the failure to complete a service plan within 30 calendar days of case opening or the failure to review the service plan within the Department's specified time frames;
- 5) the failure to provide services as specified in the service plan with reasonable promptness or within the time frames as provided in the service plan, or length of family visitation, or failure to arrange parent-child visits when the child is placed out of the home and parental rights have not been terminated, and the frequency or length of sibling visits when children are placed apart;
- 7) a change in the placement of the child; or
- 8) the imposition of unnecessary services or conditions as part of a service plan.

- b) By Foster Parents and Relative Caregivers

1) Foster parents may appeal the following issues:

- A) decisions made by the Department or its provider agency which directly affect the foster parent, such as payment issues, as defined in 89 Ill. Adm. Code 359, Authorized

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- Child Care Payments;
- B) decisions made by the Department or its provider agency regarding services provided for the benefit of foster children in their care, such as day care, medical, educational, and psychological services;
- C) failure to provide services as specified in the service plan for the benefit of the foster children in their care. This does not include services provided to the biological family, such as family therapy or family counseling; and
- B) ~~a change in the child's substitute care placement; this does not include placement with the biological or adoptive parent(s) or siblings; placements for purposes of adoption as ordered by the court; or return to an individual(s) with whom the child resided prior to entering substitute care.~~
- 2) Relative caregivers may appeal the following issues:
- A) decisions made by the Department or its provider agency that directly affect the relative caregiver, such as payment issues as defined in 89 Ill. Adm. Code 359, Authorized Child Care Payments;
- B) decisions made by the Department or its provider agency regarding services provided for the benefit of foster children in their care, such as day care, medical, educational, and psychological services;
- C) failure to provide services as specified in the service plan for the benefit of the foster children in their care. This does not include services provided to the biological family, such as family therapy or family counseling; and
- B) ~~a change in the child's substitute care placement; this does not include placement with the biological or adoptive parent(s) or siblings; placements for purposes of adoption as ordered by the court; or return to an individual(s) with whom the child resided prior to entering substitute care.~~
- 3) Foster parents and relative caregivers have the right to be heard by the Bureau of Quality Assurance on issues specified in 89 Ill. Adm. Code 316, Administrative Case Reviews and Court Hearings, Section 316-90, Decision Review, 305, Client Service Planning, Section 305-00, Decision Review which issues are not appealable under this part. However, they will not be considered a party to the service appeal on issues which may affect residual parental rights and responsibilities. These include, but are not limited to, issues regarding the child's return home, family visitation, the right to consent to adoption, the right to determine the minor's religious affiliation, and other issues which do not directly affect the foster parents themselves or their roles as caregivers of the child. The residual rights and responsibilities of parents are further defined in Section 1-3 of the Juvenile Court Act of 1987 (705 ILCS 405/1-3).

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(Source: Amended by emergency rulemaking at 25 Ill. Reg. 4283, effective March 19, 2001, for a maximum of 150 days)

Section 337.80 What May Not Be Appealed
EMERGENCY

The Administrator of the Administrative Hearings Unit will decide whether an issue is appropriate for fair hearing pursuant to Section 337.70 of this Part. Issues inappropriate for a fair hearing include, but are not limited to:

- a) When the sole issue is one of State or federal law regulating the automatic adjustment of services for classes of children and families;
- b) When the Department has already made a final administrative decision on the issue as a result of a previous appeal;
- c) When the issue is not a service issue as defined in 89 Ill. Adm. Code 302, Services Delivered by the Department, 89 Ill. Adm. Code 303, Access To and Eligibility For Day Care Services, 89 Ill. Adm. Code 304, Access To and Eligibility For Child Welfare Services, 89 Ill. Adm. Code 315, Permanency Planning, 89 Ill. Adm. Code 316, Administrative Case Reviews and Court Hearings 305-Client-Service Planning, and 89 Ill. Adm. Code 359, Authorized Child Care Payment. Such issues are to be appealed through a different administrative hearing process, as identified in 89 Ill. Adm. Code 435, Administrative Appeals and Hearings;
- d) An appeal by foster parents or relative caregivers of a change in a child's placement;
- g) When the issue regards only the Medical Assistance Program under Title XIX of the Social Security Act (42 U.S.C. Section 1396 et seq.). Appeal requests regarding Title XIX services should be sent to the Department of Public Aid.
- f) When a court has made a judicial determination or issued an order on the issue being appealed.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 4283, effective March 19, 2001, for a maximum of 150 days)

Section 337.100 How to Request a Service Appeal
EMERGENCY

- a) The appellant shall request a service appeal in writing within 45 calendar days of the date of notice. The appellant shall include in the request his or her name, address, and a statement of the intent to appeal. The appellant may also submit a general statement of the issue(s) appealed, a brief written summary stating his or her position regarding the Department's decision, and may include additional information for the Department to consider as to why the Department should change its decision.
- b) If the appellant wishes the services to remain unchanged during the time of the appeal, the appellant shall request an appeal in writing

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- within ten calendar days of the date of notice.
- c) The request for a service appeal must be in writing and shall be submitted to the Administrative Hearings Unit, Department of Children and Family Services, 406 E. Monroe Street, Springfield, Illinois, 62701-1660-North-Badger-6th-Floor-Chicago, Illinois-60601.
- d) If the appellant is unable to request a service appeal in writing the Department or provider agency shall provide assistance to ensure that the request is made in writing.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 4283, effective March 19, 2001, for a maximum of 150 days)

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Services Delivered by the Department of Children and Family Services
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3) Section Numbers: 302.310
302.405
Emergency Action:
Amended
Amended
- 4) Statutory Authority: Children and Family Services Act [20 ILCS 505/51]; implementing Section 7.16 of the Abuse and Neglected Child Reporting Act [325 ILCS 5/7.16]
- 5) Effective Date of Amendments: March 15, 2001
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which they expire: Not Applicable
- 7) Date Filed in Agency's Principal Office: March 15, 2001
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: While the Department has achieved great success in finding adoptive homes for children who would otherwise remain in foster care, one population of children for whom it is more difficult to achieve permanent homes are those children 14 years of age and older. There are over 8,000 children in this age bracket for whom a permanent home has not yet been achieved. In order to quickly take advantage of federal funds under what has been informally titled the "Chafee Bill" and which will soon be depleted, the Department is submitting these rules for the purpose of promoting permanency, in the form of adoption or subsidized guardianship, for children who are 14 years of age or older.

10) A Complete Description of the Subjects and Issues Involved: The Department is creating an incentive payment of \$3000 for children between 14 to 18 years of age, who are placed in an adoptive home or for whom private guardianship has been awarded during the time period of March 15, 2001 and June 30, 2002. The payment will be given directly to the child when the adoption assistance or subsidized guardianship subsidy ends. The payment is intended to assist the child's transition to adulthood, to help pay for education, housing, or other forms of vocational training or employment assistance.

- 11) Are there any proposed amendments pending to this Part: No
- 12) Statement of Statewide Policy Objectives: Not Applicable

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

13) Information and questions regarding this Amendment shall be directed to:

Jeff Osowski, Office of Child and Family Policy
 Department of Children and Family Services
 406 East Monroe Street, Station #65
 Springfield, IL 62701
 Telephone: 217/524-1983
 TDD: 217/524-3715
 Facsimile: 217/557-0692
 E-Mail address: cfpolicy@idofcs.state.il.us

The full text of the Emergency Amendments begins on the next page:

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER a: SERVICE DELIVERY

PART 302

SERVICES DELIVERED BY THE DEPARTMENT

SUBPART A: GENERAL PROVISIONS

Section	Purpose
302.10	Definitions
302.20	Introduction
302.30	Department Service Goals
302.40	Functions in Support of Services
302.50	

SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT (RECODIFIED)

Section	Purpose
302.100	Reporting Child Abuse or Neglect to the Department (Recodified)
302.110	Content of Child Abuse or Neglect Reports (Recodified)
302.120	Transmittal of Child Abuse or Neglect Reports (Recodified)
302.130	Special Types of Reports (Recodified)
302.140	Referrals to the Local Law Enforcement Agency and State's Attorney (Recodified)
302.150	Delegation of the Investigation (Recodified)
302.160	The Investigative Process (Recodified)
302.170	Taking Children Into Temporary Protective Custody (Recodified)
302.180	Notification of the Determination Whether Child Abuse or Neglect Occurred (Recodified)
302.190	Referral for Other Services (Recodified)

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section	Purpose
302.300	Adoptive Placement Services (Repealed)
302.305	Adoption Listing Service for Hard-to-Place Children or Children with Disabilities for Whom the Department is Not Legally Responsible
302.310	Adoption Assistance Agreements
302.311	Nonrecurring Adoption Expenses (Repealed)
302.315	Adoption Registry (Repealed)
302.320	Counseling or Casework Services
302.330	Day Care Services
302.340	Emergency Caretaker Services
302.350	Family Planning Services
302.360	Health Care Services
302.370	Homemaker Services

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302.380 Information and Referral Services
 302.390 Placement Services (Repealed)
 302.400 Successor Guardianship (Repealed)
 302.405 Subsidized Guardianship Program

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SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

Section	Purpose
302.500	Implementation of the Family Preservation Act
302.510	Types of Intensive Family Preservation Services
302.520	Phase In Plan for Statewide Family Preservation Services
302.530	Time Frames
302.540	

APPENDIX A Acknowledgment of Mandated Reporter Status (Recodified)
 APPENDIX B Calculating the Amount of Adoption Assistance (Repealed)

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305]; the Adoption Assistance and Child Welfare Act of 1980 (42 U.S.C.A. 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302-20, 302-400, 302-110, 302-120, 302-130, 302-140, 302-150, 302-160, 302-170, 302-180, 302-190, 302-200, 302-210, 302-220, 302-230, 302-240, 302-250, 302-260, 302-270, 302-280, 302-290, 302-300, 302-310, 302-320, 302-330, 302-340, 302-350, 302-360, 302-370, 302-380, 302-390, 302-400, 302-410, 302-420, 302-430, 302-440, 302-450, 302-460, 302-470, 302-480, 302-490, 302-500, 302-510, 302-520, 302-530, 302-540, 302-550, 302-560, 302-570, 302-580, 302-590, 302-600, 302-610, 302-620, 302-630, 302-640, 302-650, 302-660, 302-670, 302-680, 302-690, 302-700, 302-710, 302-720, 302-730, 302-740, 302-750, 302-760, 302-770, 302-780, 302-790, 302-800, 302-810, 302-820, 302-830, 302-840, 302-850, 302-860, 302-870, 302-880, 302-890, 302-900, 302-910, 302-920, 302-930, 302-940, 302-950, 302-960, 302-970, 302-980, 302-990, 303-000, 303-010, 303-020, 303-030, 303-040, 303-050, 303-060, 303-070, 303-080, 303-090, 303-100, 303-110, 303-120, 303-130, 303-140, 303-150, 303-160, 303-170, 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on changes in the circumstances of the adopted parents and the needs of the child being adopted. However, while payments may be increased based on changes in the level of care the child needs, payments will not be decreased based on changes in the level of care. In no event shall the monthly adoption assistance payment be greater than the applicable licensed foster family care payment level.

- a) An incentive payment of \$3000 for children who are between 14 to 18 years of age when adopted during the time period of March 15, 2001 and June 30, 2002. For a further description of the purpose and terms of this payment see subsection (k) below.

- b) For purposes of this Section, a child shall not be considered a child with special needs unless the Department has first determined that:

- 1) the child cannot or should not be returned to the home of his or her parents, as determined by:

- A) a judicial adjudication that the child is abused, neglected or dependent or other judicial determination that there is probable cause to believe that a child is abused, neglected or dependent; and
- B) a determination by the Department that the child is likely to suffer further abuse or neglect or will not be adequately cared for if returned to the parent(s); and
- 2) the child meets one of the following criteria:

- A) has an irreversible or non-correctable physical, mental or emotional disability; or
- B) has a physical, mental or emotional disability correctable through surgery, treatment, or other specialized services; or
- C) is three years of age or older; or
- D) is a member of a sibling group being adopted together where at least one child meets one of the criteria in subsection (b)(2)(A) through (C) above; or
- E) is a child being adopted by adoptive parents who have previously adopted, with adoption assistance, another child born of the same mother or father; and
- 3) a reasonable, but unsuccessful, effort has been made to place the child with adoptive parents without providing adoption assistance and the prospective adoptive parents are either unwilling or unable to adopt the child without adoption assistance, as evidenced by a written statement from the adoptive parents, a documented search for alternative adoptive placements without adoption assistance shall be made unless the Department determines that such a search is against the best interests of the child because the child has developed significant emotional ties with the prospective adoptive parents while in their foster care.

- c) Adoption assistance as a one-time only payment for non-recurring adoption expenses shall be provided to parents adopting a child who is

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determined by the Department to have special needs as provided in subsection (b) of this Section. This includes expenses incurred by or on behalf of such parents, in connection with the adoption of a special needs child, either directly or through another public or private agency. These expenses include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a child with special needs and that are not incurred in violation of State or Federal law. The amount of payments to be made in any specific case shall be determined by the needs of the child being adopted and the availability of pro bono services, and shall not exceed \$1500 per adoptive child. The adoptive parents may refuse any or all payments available under this subsection (c) of this Section.

- d) Adoption assistance for ongoing monthly payments and medical assistance may be provided to parents adopting a child who:

- 1) is determined by the Department to have special needs as provided in subsection (b) of this Section; and
- 2) meets one of the following conditions:

- A) was eligible at the time the adoption petition was filed for Aid to Families with Dependent Children (AFDC) under the provisions of Title IV-A of the Social Security Act in effect as of July 16, 1996; or

- B) was eligible for foster care maintenance payments under Title IV-E of the Social Security Act at the time the adoption petition was filed; or

- C) was eligible for Supplemental Security Income (SSI) prior to finalization of the adoption; or

- D) is a child for whom the Department of Children and Family Services was legally responsible when the adoption petition was filed; and

- 3) in all cases, other than a child determined to have special needs under subsection (b)(2) of this Section because of a documented physical, mental, or emotional disability, the child has been in the care of the Department or another agency or person other than his or her parents pursuant to an order of the court for at least one year prior to the adoption unless the child is being adopted after October 1, 1997 and is a child who had previously been adopted with adoption assistance, but the adoption was dissolved and the parental rights of the adoptive parents were terminated, or the adoptive parents died. However, the one year placement requirement is not applicable for sibling groups where at least one sibling is determined to be special needs because of a documented physical, mental, or emotional disability and meets all requirements for adoption assistance.

- e) The Department shall make an initial determination whether to provide ongoing monthly payments and the amount of the payment in each individual case by taking into consideration the circumstances of the adoptive parents and the needs, age, and type of placement of the

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child being adopted as adjusted for any benefits the child will be receiving, such as Social Security, Veterans' benefits, railroad retirement or black lung benefits. Supplemental Security benefits (SSI) are not to be considered in the determination of the ongoing monthly payment. If a child is receiving SSI, the receipt of adoption assistance is taken into consideration by the Social Security Administration when calculating the amount of the SSI benefit.

f) In cases where the determination under subsection (b)(2) of this Section is based on a diagnosis that the child may eventually require care for a documented medical condition or disability related to pre-existing physical, mental, or emotional conditions or risk factors that do not yet require treatment at the time of the adoption, no such payments shall be made at that time. The adoption assistance agreement may provide that such payments be initiated when the child's pre-existing condition or identified risk factors warrant treatment or professional intervention. If such payments are commenced, the ongoing monthly payment shall in no event exceed the amount the child would receive if the child was in foster care at the time the payments are initiated.

g) The adoption assistance agreement providing for ongoing monthly payments and medical assistance shall include an agreement with the adoptive parents that the amount of any ongoing monthly payments shall be reviewed ~~at least~~ every two years and may be readjusted every two years or more frequently, based on changes in the circumstances of the adoptive parents and the needs of the child being adopted. However, while payments may be increased based on changes in the level of care the child needs, payment will not be decreased based on changes in the level of care. If the adoptive parents or the adopted child disagree with the Department's determination, they may appeal the determination in accordance with 89 Ill. Adm. Code 337 (Service Appeal Process). Adoptive parents may refuse any or all payments offered by the Department.

h) A prospective adoptive family being presented with a child determined to be a special needs child shall be made aware of the availability of adoption assistance and the types of adoption assistance and, in the case of ongoing monthly adoption assistance payments, that such payments are subject to review at least every two years and may be terminated or readjusted based on subsections (i) and (j). In order to receive adoption assistance, the child must be placed in the adoptive home and the adoption assistance agreement signed prior to finalization of the adoption.

i) The type(s), amount and duration of adoption assistance shall be agreed to in writing by the Department and the adoptive parent(s) prior to the finalization of the adoption, and shall be set forth in the adoption assistance agreement, which shall be binding on the parties to the agreement. The agreement shall also stipulate that the agreement shall remain in effect regardless of the state where the adoptive parents reside currently or in the future and shall contain

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provisions for the protection of the interests of the child in cases where the adoptive parents and child move to another state while the agreement is in effect. The duration of adoption assistance may extend until age 18 years, or until age 19 years if the child is still in high school, although adoption assistance may be provided at the Department's option until the child's 21st birthday if the child has a physical, mental or emotional disability that warrants the continuation of assistance. The adoptive parents or the adoptive child may appeal the Department's decision to discontinue adoption assistance at age 18 or 19 for a child still in high school.

j) The adoptive parent shall notify the Department as soon as practically possible in writing of a change in address or when the following changes occur which will affect the amount of adoption assistance:

- 1) the child is no longer the legal responsibility of the adoptive parent;
- 2) the child is no longer receiving financial support from the adoptive parent;
- 3) the child's condition has changed to the extent that, if the child were in foster care, an increase in the child's level of care would be required; or
- 4) a change has occurred in the circumstances of the family that is relevant in determining the amount of assistance payments. Such circumstances pertain to the parents' ability to incorporate the child into their household in relation to their standard of living, future plans and overall capacity to meet the immediate and future needs of the child.

k) The Department may provide a payment of \$3000.00 to be awarded to an adopted child under the following circumstances in the manner described:

- 1) In order to assist youth who have been adopted transition to adulthood, the Department will provide a payment of \$3000.00 directly to the youth upon termination of his or her adoption subsidy.
- 2) The payment is intended to assist the child's transition to adulthood by helping pay for education, housing, or other forms of vocational training or employment assistance.
- 3) In order to be eligible for this payment, the child:
 - a) must have been the legal responsibility of the Department prior to the adoption; and
 - b) must have been 14 to 18 years of age when adopted, during the time period of March 15, 2001 until June 30, 2002.
- 4) Children in adoption placements within this time period who do not have their adoptions finalized by June 30, 2002 will not be eligible for this grant award.
- 5) The payment will be awarded directly to the child.
 - 1k) If an adoption is dissolved because of the termination of the parental rights of the adoptive parents or the death of the adoptive parents, a child adopted with adoption assistance continues to be eligible for

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such assistance if he or she is adopted again on or after October 1, 1997.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. **4292**, effective March 15, 2002, for a maximum of 150 days)

Section 302.405 Subsidized Guardianship Program**EMERGENCY**

a) Description. Subsidized guardianship is a program for which the Department has received waivers from the Federal Department of Health and Human Services under Section 1130 of the Social Security Act to operate a child welfare demonstration project. The program offers a subsidized private guardianship arrangement for children for whom the permanency goals of return home and adoption have been ruled out as evidenced by an assessment documented in the service plan. The types of assistance that may be provided include:

- 1) payments of one-time court costs and legal fees, if required, in connection with the establishment of guardianship, up to a maximum of \$500;
- 2) payments for physical, emotional and mental health needs not wholly payable through insurance or other public resources that are associated with or result from a medical condition whose onset has been established as occurring prior to the transfer of guardianship. Such payments include medical benefits as provided under title XIX of the Social Security Act (Medicaid) and include services such as physician and clinic fees, hospitalization costs, and prescriptions; and
- 3) ongoing monthly payments in an amount determined in each case by the Department in accordance with subsection (e) below.
- 4) An incentive payment of \$3000 for children between 14 to 18 years of age, when guardianship with subsidized guardianship was awarded the private guardian during the time period of March 15, 2001 and June 30, 2002. For a further description of the purpose and terms of this payment see subsection (f) below.

b) When Subsidized Guardianship is Appropriate
Subsidized guardianship is a program available for only those children who meet the following criteria.

- 1) The child must have been in the legal custody of the State for two years or more immediately prior to establishing subsidized guardianship.
- 2) The child must have resided with the prospective private guardian (relative caregiver or non-relative licensed foster care provider) for at least one year immediately prior to establishing the subsidized guardianship. However, the one year placement requirement is not applicable for sibling groups when at least one sibling meets all other subsidized guardianship requirements.
- 3) A child living in the home of a non-relative must be at least 12

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years of age. However, the age criteria is not applicable for sibling groups when at least one sibling meets all subsidized guardianship criteria. However, if a child younger than 12 years of age is living in the home of a non-relative and has no older sibling for whom subsidized guardianship is being considered, the caseworker must determine that subsidized guardianship is in the child's best interests due to the length of time the child has been in the home, the age of the child, characteristics, limitations, and responsibilities including health and mobility of the caretakers or the special needs of the child. The basis for the best interest decision must be documented, and must be approved by the Department Guardianship Administrator.

- 4) The child must have a strong attachment to the potential guardian and the guardian must have a strong commitment to the child.
- 5) Reunification efforts of the child with his or her family must have been ruled out despite reasonable efforts having been made to reunite the child with his or her parents as documented in the case record.
- 6) Adoption must have been ruled out as a permanency goal for the child.
- 7) The parents may consent to the subsidized guardianship arrangement or the Department may proceed, for good cause, to seek a private guardian without parental consent provided that notice is given of the guardianship petition hearing in accordance with Section 11-10.1(a) of the Probate Act [75 ILCS 5/11-10.1(a)].
- 8) A child 14 years of age or older must consent to the initiation of the subsidized guardianship living arrangement.
- 9) The prospective guardian must have no record of any felony convictions.
- c) Responsibilities of the Private Subsidized Guardian
 - 1) Private guardians are responsible for ensuring that parents have the opportunity to visit their children in accordance with the provisions/orders of the court.
 - 2) Private guardians shall notify the Department as soon as practically possible in writing when the following changes occur which may affect the amount of the subsidy:
 - A) the child is no longer the legal responsibility of the subsidized guardian;
 - B) the child is no longer receiving financial support from the subsidized guardian;
 - C) a change has occurred in the circumstances of the family that is relevant in determining the amount of assistance payments; or
 - D) there is a change of address.
 - d) Responsibilities of Department
 - 1) Prior to approving a subsidized guardianship arrangement for a child, the Department shall determine whether subsidized

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guardianship is in the best interests of the child. In making that determination the Department shall, through an assessment, consider all relevant factors including but not limited to:

- A) the wishes of the child's prospective subsidized guardian;
- B) the wishes of the child under the age of 14 or the consent of the child, if over age 14;
- C) the interaction and interrelationship of the child with the prospective subsidized guardian;
- D) the child's adjustment to the present home, school, and community;
- E) the child's need for stability and continuity of relationship with the prospective subsidized guardian; and
- F) the mental and physical health of all individuals involved.

The Department shall ensure that the subsidized guardianship arrangement is a safe and suitable placement by means of a safety check which shall include a CAMTS and LEADS check.

The Department shall ensure that members of sibling groups are placed together, unless there is an explicit determination that they should not be placed together for the reasons described in 89 Ill. Adm. Code 301 (Placement and Visitation Services) when making placements under the subsidized guardianship program.

The Department will offer short-term support services for foster care and relative home providers prior to and during subsidized guardianship. Services will include preliminary screening, assessment, assistance in applying for subsidized guardianship, and payment for one time only court costs and legal fees, if required.

The Department shall provide children in the subsidized guardianship program with a full range of services under the Medicaid program which includes health care services and mental health care services.

The Department shall ensure that an orientation is provided to the family of the subsidized guardian to assure that all family members understand the benefits and responsibilities of all the participants in the subsidized guardianship arrangement.

The Department shall ensure that each prospective guardian has access to a caseworker who will respond to requests for information and assistance.

The Department shall ensure that all guardians are provided access to fair hearings under 89 Ill. Adm. Code 337 (Service Appeal Process).

The Department shall accept custody of the child in accordance with the Abused and Neglected Child Reporting Act [325 ILCS 5] if the guardian does not care for him or her to the extent the child's health or well-being is endangered.

The Department shall provide financial assistance for these children in accordance with Section 302.405(e) (Subsidy for Subsidized Guardianship).

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e) Subsidy for the Subsidized Guardianship Program

1) Although eligibility for a subsidy under the subsidized guardianship program shall be determined regardless of the financial circumstances of the prospective subsidized guardian, the types and amounts of assistance under each subsidized guardianship agreement shall be determined by the Department in the same manner as described for adoption assistance in Section 302.310(e) of this Part.

2) The subsidized guardianship agreement providing for ongoing monthly payments shall include an agreement with the subsidized guardian that the amount of any ongoing monthly payments shall be reviewed at least every two years or more frequently and may be reduced annually or more frequently. The amounts of ongoing subsidized guardianship payments are subject to change based on changes in State or federal law regarding adoption assistance payments. Subsidized guardians may refuse any or all payments offered by the Department.

3) A relative caregiver or licensed foster parent with a child determined to be eligible for the subsidized guardianship program shall be made aware of the availability of subsidized guardianship, the types of assistance available, the amount of payment, and, in the case of ongoing monthly subsidized guardianship payments, that such payments are subject to review at least every two years or more frequently and may be readjusted as set forth in subsection (e)(2) above. In order to receive a subsidized guardianship payment, the subsidized guardianship agreement must be signed prior to finalization of the transfer to private guardianship.

4) The type, amount and duration of subsidized guardianship shall be agreed to in writing by the Department and the subsidized guardian prior to the finalization of the transfer to private guardianship, and shall be set forth in the subsidized guardianship agreement, which shall be binding on the parties to the agreement. The agreement shall also stipulate that the agreement shall remain in effect regardless of the state where the subsidized guardian resides currently or in the future and shall contain provisions for the protection of the interests of the child in cases where the subsidized guardian and child move to another state while the agreement is in effect. The duration of subsidized guardianship shall continue without further involvement by the court until termination when the child marries or dies, is emancipated, or reaches the age of 18 or 21 as specified in the agreement. The guardianship will also terminate upon the death, incapacity, resignation, or removal of the guardian.

5) While guardianship is terminated under the Probate Act when a child reaches age 18, financial assistance may be provided through age 19 for a child still in high school or until age 21

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for children with certain mental or physical handicapping conditions only.

f) The Department may provide a payment of \$3000.00 to be awarded to a child placed in subsidized guardian ship under the following circumstances in the manner described:

- 1) In order to assist youth who have been receiving subsidized guardianship transition to adulthood, the Department will provide a payment of \$3000.00 directly to the youth upon termination of his or her subsidized guardianship subsidy.
- 2) The payment is intended to assist the child's transition to adulthood by helping pay for education, housing, or other forms of vocational training or employment assistance.
- 3) In order to be eligible for this payment, the child:
 - A) must have been the legal responsibility of the Department prior to the subsidized guardianship, and
 - B) must have been 14 to 18 years of age when guardianship was awarded to the private guardian during the time period of March 15, 2001 until June 30, 2002.
- 4) Children within this time period who do not have their private guardianship finalized by June 30, 2002 will not be eligible for this grant award.
- 5) The payment will be awarded directly to the child.

g) Demonstration and Cost Neutrality Groups

Although participation in the subsidized guardianship program is Statewide, for purposes of meeting the cost neutrality, federal funding, and evaluation requirements of the federal waiver demonstrations, clients will be randomly assigned in three geographical areas of the State to a demonstration group or a cost neutrality group. The demonstration group will be subject to the waiver provisions of the demonstration, and the cost neutrality group will be subject to the regular treatment services according to the Department's rules and procedures. The three areas are:

- 1) the Cook Central Region.
- 2) the East St. Louis sub-region serving the following counties:

A) Madison;
 B) St. Clair;
 C) Bond;
 D) Clinton;
 E) Washington;
 F) Monroe; and
 G) Randolph.

- 3) the Peoria sub-region serving the following counties:

A) Fulton;
 B) Henderson;
 C) Knox;
 D) Warren;
 E) Henry;
 F) LaSalle;

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- G) McDonough;
 H) Mercer;
 I) Rock Island;
 J) Tazewell;
 K) Woodford;
 L) Peoria;
 M) Bureau;
 N) Marshall;
 O) Putnam; and
 P) Stark.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. effective March 15, 2001, for a maximum of 150 days)

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ILLINOIS COMMERCE COMMISSION

NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Uniform Electric Fuel Adjustment2) Code Citation: 83 Ill. Adm. Code 4253) Section Numbers: Emergency Action:

425.30

Amendment

425.40

4) Statutory Authority: Implementing Section 9-220 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/9-220 and 10-101].5) Effective Date of Amendments: March 9, 20016) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable7) Date Filed with the Index Department: March 8, 20018) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Commission's office in Springfield and is available for public inspection.9) Reason for Emergency: The Commission is amending Part 425 by emergency rulemaking because there is an immediate need to clarify that energy costs associated with competitive, non-regulated sales to retail customers resulting from the enactment of Article XVI of the Public Utilities Act are not required to be deducted from costs otherwise recoverable under the fuel adjustment clause on the basis of average cost. The emergency amendment would further mandate that costs attributable to competitive retail sales outside an electric utility's service area must be deducted from amounts otherwise recoverable under the fuel adjustment clause on the basis of incremental cost. This action is necessary to ensure that ratepayers subject to the fuel adjustment clause will not be required to pay for costs attributable to electricity sold other than in accordance with the utility's obligation to provide tariffed service to Illinois Jurisdictional retail customers.10) A Complete Description of the Subjects and Issues Involved: The Commission has adopted 83 Ill. Adm. Code 425, "Uniform Electric Fuel Adjustment", to implement Section 9-220 of the Public Utilities Act. Section 9-220(a) provides in relevant part:

Notwithstanding the provisions of Section 9-201, the Commission may authorize the increase or decrease of rates and charges based upon changes in the cost of fuel used in the generation or production of electric power, changes in the cost of purchased power, or changes in the cost of purchased gas through the application of fuel adjustment

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clauses or purchased gas adjustment clauses.

When the Commission first adopted Part 425, it was not anticipated that electric utilities would receive the right to sell the electricity they generate to retail customers on a non-tariffed basis in their own service area and in the service areas of other utilities. Part 425 has been construed by the Commission in one instance to allow an electric utility to subtract costs attributable to its competitive off-system sales on an average cost, rather than on an incremental cost, basis.

If costs attributable to non-jurisdictional sales (including retail sales to off-system customers) are subtracted from amounts otherwise recoverable under the fuel adjustment clause (FAC), and if fuel costs and purchased power costs are lumped together and subtracted using average rather than incremental costs, the effect is to require FAC customers to pay for a portion of the power costs incurred only because the electric utility has contractually obliged itself to serve a non-native customer or to provide service on a competitive basis to customers within its service area. Under such a construction, retail customers who have no choice but to take electricity priced at the tariffed FAC level effectively subsidize the utility as it sells electricity it has purchased at the then-going market rate to serve extra-territorial customers, or possibly to serve new load of competitive customers within its own service area. It is questionable whether the rates set to collect such a subsidy would be considered just and reasonable for purposes of Article IX of the Public Utilities Act.

The emergency amendment of Part 425 is intended to clarify that energy costs associated with competitive, non-regulated sales to retail customers resulting from the enactment of Article XVI of the Act are not required to be deducted from costs otherwise recoverable under the FAC on the basis of average cost. The emergency amendment further mandates that costs attributable to competitive retail sales outside an electric utility's service area must be deducted from amounts otherwise recoverable under the FAC on the basis of incremental cost.

11) Are there any proposed amendments to this Part pending: No12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any state mandate on units of local government, school districts, or community college districts.13) Information and questions regarding these amendments shall be directed to:

Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

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Phone: (217) 785-3922
Fax: (217) 524-9280

The full text of the Emergency Amendments appears on the next page:

ILLINOIS COMMERCE COMMISSION
NOTICE OF EMERGENCY AMENDMENTS
TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIES

PART 425
UNIFORM ELECTRIC FUEL ADJUSTMENT

Section	
425.10	Applicability
425.20	Cost Basis
425.30	Fuel Adjustment Formula
EMERGENCY	
425.40	Interpretation
EMERGENCY	
425.50	Administration

AUTHORITY: Implementing Section 9-220 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/9-220 and 10-101].

SOURCE: Adopted at 5 Ill. Reg. 14133, effective December 3, 1981; amended at 7 Ill. Reg. 191, effective December 15, 1982; codified at 7 Ill. Reg. 14505; amended at 9 Ill. Reg. 684, effective January 8, 1985; amended at 13 Ill. Reg. 16730, effective January 1, 1990; amended at 18 Ill. Reg. 17989, effective December 15, 1994; amended at 19 Ill. Reg. 13882, effective October 1, 1995; emergency amendment at 25 Ill. Reg. 4307, effective March 9, 2001, for a maximum of 150 days.

Section 425.30 Fuel Adjustment Formula
EMERGENCY

The fuel adjustment clause shall be of the following form:

$$FAC = \frac{\{CF + CPP - CNS\} \times 100}{5} - BFC + Ra + Ro + D$$

where:

FAC = Fuel adjustment charge per KWH. The amount in cents per KWH, rounded to the nearest .001¢, to be charged for each applicable KWH billed or delivered in the billing period, in excess of that amount included in Base Fuel Costs. The FAC is subject to refunds or increases due to overcollection or undercollection, depending on the results of the automatic reconciliation factor (Ra) and the ordered reconciliation factor (Ro) as defined under Section 425.50 "Administration".

CF = Allowable fuel cost associated with company owned generating plants. Fuel cost shall be interpreted in accordance with Section 425.40 "Interpretation" to include all fossil and nuclear fuel to be consumed in the utility's own plants or in plants owned by wholly-owned subsidiaries of the utility and/or the utility's share

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of fossil and nuclear fuel to be consumed in jointly owned or leased plants during the period for which the FAC is being determined.

CPP = Allowable energy cost associated with purchased power. Purchased power shall be interpreted to include emergency, contract, and economy purchases. Except for power purchased for economy reasons, only the energy portion of the power to be purchased during the period for which the FAC is being determined is to be included. All other associated charges are specifically excluded. The demand charges for power to be purchased for economy reasons are allowable energy cost.

CNS = Energy net costs associated with sales not subject to FAC. Energy costs associated with non-jurisdictional non-utility sales, including sales for resale, interdepartmental sales, energy furnished without charge, and other sales not subject to FAC shall be included in factor CNS on the basis of average CNS energy cost. Such fuel costs shall be assumed to be average fuel costs during the period for which the FAC is being determined, except in the case of energy net costs associated with interchange power sales which shall represent the amounts recovered with respect to energy fuel, and sales, ordinarily the incremental cost of such energy fuel, and except in the case of energy costs associated with sales made to retail customers as a "competitive service," as that term is defined in Section 16-102 of the Public Utilities Act [220 ILCS 5/16-102]. Energy costs associated with sales made to retail customers located outside the electric utility's service area shall be included in factor CNS on an incremental cost basis. Nothing in this Section requires that either an average or an incremental cost basis be used for energy costs associated with sales made to retail customers as a competitive service within the electric utility's service area.

S = Applicable estimated kWhs subject to FAC either to be billed or delivered during the period for which the FAC is being determined.

RFC = Base Fuel Cost in cents/kWh.

Ra = Automatic Reconciliation factor in cents/kWh.

Ro = Ordered Reconciliation factor in cents/kWh.

D = Desulfurization fee in cents/kWh.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. effective March 9, 2001, for a maximum of 150 days)

4307

Section 425.40 Interpretation

EMERGENCY

a) Economic dispatch. Economic dispatch means the operation of the electric utility's system, utilizing the source of available power to achieve minimum overall costs, taking into consideration the utility's voltage, frequency, reliability, environmental, safety and service quality requirements, as well as the utility's existing contractual obligations. The utility shall adhere to the principles of economic

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dispatch unless under unusual circumstances the prudent operation of the utility's system dictates otherwise. If there is a deviation from economic dispatch or any use of less than 100% of the fuel cost of any resource in the dispatch, the deviation shall be fully explained in the initial monthly filing after the facts giving rise to such deviation first occur. Subsequent filings which continue to be affected by facts previously explained need not be accompanied by such explanation.

b) Billing period. The billing period is defined as the period beginning with the first billing cycle of the month for which the FAC is being determined and ending with the last billing cycle thereof.

c) Allowable fuel and fuel related charges (CFP).

1) The cost of fuel shall include the direct cost of fuel delivered at the generating plants. The direct fossil fuel costs and #547 which have been cleared into fuel expense Accounts #501 and #547 #151, or in the case of gas fuel the amount which is charged directly to Accounts #501 or #547. Costs cleared from Fuel Stock Accounts #152 and #153 are specifically excluded. The cost of fuel used in the generation or production of electric power shall not include transportation costs of coal (this exclusion includes items 2, 4, and 5 of Fuel Stock Account #151) except as otherwise provided in this subsection. Such costs of fuel shall, when general electric rate proceeding, whichever shall first occur, include transportation costs of coal purchased under existing coal purchase contracts. For purposes of this subsection "existing coal purchase contracts" means contracts for the purchase of coal in effect on August 27, 1991, as such contracts may thereafter be amended, but only to the extent that any such amendment does not increase the aggregate quantity of coal to be purchased under such contract (Section 9-220 of the Public Utilities Act ("Act") [220 ILCS 5/9-220]).

2) The cost of nuclear fuel shall be that as expensed in Account #518, including provisions for storage and disposal of spent nuclear fuel including spent fuel disposal fees, except that handling costs for nuclear fuel assemblies or any expense for fossil fuel which has already been included in the costs of fossil fuel, are specifically excluded.

3) The consumed fuel costs associated with test generation shall be included in allowable fuel and fuel related charges to the extent they are equal to or less than the average fuel costs of the utility's other units operated during the period for which the FAC is being determined. Average fuel costs equal total fuel costs of a utility's generating facilities less the cost of test generation, divided by total net generation less test generation. Where the cost of fuel includes fuel and/or transportation costs from company owned or controlled services (in whole or in part),

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- that fact shall be noted and described as part of any filing.
- 5) With respect to the price of fuel purchases or transportation services from company or controlled sources pursuant to contracts which are not subject to regulatory authority, the utility company shall file such contracts and amendments thereto annually with the Commission.
 - 6) Fuel or transportation charges by affiliated companies which do not appear to be reasonable may result in the suspension of the fuel adjustment clause or cause an investigation thereof to be made by the Commission on its own motion. Any suspension of the fuel adjustment clause may occur if, after a hearing, a finding is made that such charges of a utility are unreasonable.
 - 7) The cost of fuel shall include the direct cost of purchasing or otherwise acquiring, for utility operations purposes, emission allowances, created under the Federal Clean Air Act Amendments of 1990 (Pub. L. 101-549) including the emission allowances allocated to the utility by the United States Environmental Protection Agency, limited to the following:
 - A) The costs cleared from Account #158.1 - Allowance Inventory, and charged to Account #509 - Allowances, concurrent with the monthly emission of sulfur dioxide;
 - B) The gains cleared from Account #254 - Other Regulatory Liabilities, and credited to Account #411.8 - Gains from Disposition of Allowances; and
 - C) The losses charged to Account #411.9 - Losses from Disposition of Allowances.
 - d) Allowable Energy Costs Associated with Purchased Power (CPP) represents only the energy cost portion of emergency and contract purchases. It represents the energy and demand cost portions of economy purchases. Non-monetary exchanges of power are not included. Mt. Carmel Public Utility Co., and South Beloit Water, Gas and Electric Company are permitted to include in their computation of purchased power cost (CPP) the demand charges associated with such purchases.
 - e) Base Fuel Cost (BFC). The base fuel costs in cents per kWh rounded to the nearest .001¢ included in the energy charges of the utility's rates.
 - f) Non-jurisdictional sales. Sales not subject to the jurisdiction of the Commission. **Fuel costs associated with sales--to other--privately owned--electric-utilities--under--interchange--power--agreements.**
 - g) Desulfurization Cost. Payment for professional services, licenses, etc. for the implementation and operation of a process for the desulfurization of the flue gas when burning high sulfur coal at any location within the State of Illinois irrespective of the attainment status designation of such location, except for any fees or costs related to a service contract to the extent that recovery of comparable costs would not be permitted through the PAC if incurred directly by a utility owning and operating such a facility (Section

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- 9-220 of the Act). If fees are more than 10% of the estimated fuel cost for the month (CF & CPP - CNS) excluding the desulfurization fees, they shall be deferred (Account #186, Miscellaneous Deferred Debits) and amortized at a rate which will permit the charge off of the deferred amount in the shortest time frame, while conforming to the 10% restraint.
- h) CNS Energy Cost. Energy cost associated with CNS, consisting of generation fuel cost (CF) and purchased power cost (CPP).
 - i) Average CNS Energy Cost. Average cost associated with CNS energy cost per kWh shall be computed as a fraction, the numerator of which equals the quantity (total energy cost, less costs attributable to interchange power sales, less energy costs associated with sales made to retail customers located outside the electric utility's service area, less energy costs associated with any sales made to retail customers as a "competitive service," as that term is defined in Section 16-102 of the Act, within the electric utility's service area which the Commission has determined should be calculated on an incremental basis for purposes of inclusion in factor CNS). The denominator of the fraction shall equal the quantity (the number of kWh of electricity the costs of which are included in total energy cost, less the number of kWh the costs of which are excluded from the numerator of this fraction).

(Source: Amended by emergency rulemaking at 25 Ill. Reg. 4307, effective March 9, 2001, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of March 5, 2001 through March 12, 2001 and have been scheduled for review by the Committee at its March 20, 2001 or April 17, 2001 meetings in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
4/18/01	Department of Human Services, Aid to the Aged, Blind or Disabled (89 Ill Adm Code 113)	12/29/00 24 Ill Reg 18975	3/20/01
4/19/01	Department of Public Health, Testing of Breath, Blood and Urine for Alcohol and/or Other Drugs (Repealer) (77 Ill Adm Code 510)	1/5/01 25 Ill Reg 42	4/17/01
4/21/01	Department of Labor, Illinois Child Labor Law (56 Ill Adm Code 250)	12/8/00 24 Ill Reg 17711	4/17/01
4/22/01	Department of Revenue, Retailers' Occupation Tax (86 Ill Adm Code 130)	1/12/01 25 Ill Reg 386	4/17/01
4/22/01	Department of Revenue, Service Occupation Tax (86 Ill Adm Code 140)	12/1/00 24 Ill Reg 17498	4/17/01
4/22/01	Illinois Racing Board, Entries and Declarations (11 Ill Adm Code 1312)	1/19/01 25 Ill Reg 785	4/17/01